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ABSTRACT OF THE PROCEEDINGS

OF THE

Council of the Governor of Fort Saint George

ASSEMBLED FOR THE PURPOSE OF

MAKING LAWS AND REGULATIONS

FOR

1875 AND 1876.

WITH INDEX.

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செப்பனிடுபவர் பெயர்

செப்பனிடுவதற்காக எடுத்துக்
கொள்ளப்பட்ட நாள் 8/94

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சரிபார்க்கும் ஆராய்ச்சி
மு. பா. எ. உதவியாளர்
கையொப்பம் கையொப்பம்

13/9/94

MADRAS RECORD OFFICE

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Abstract of the Proceedings of the Council of the Governor of Fort St. George, assembled for the purpose of making Laws and Regulations, under the provisions of the Act of Parliament 24 and 25 Victoria, Cap. 67.

THE Council met at the Council Chamber in Fort St. George, on Tuesday the 23rd day of February 1875.

PRESENT:

His Excellency the Governor of Madras—*presiding*.
His Excellency the Commander-in-Chief.
The Hon'ble J. D. Sim, C.S.I.
The Hon'ble W. Robinson, C.S.I.
The Hon'ble H. S. Cunningham.
The Hon'ble D. F. Carmichael.
The Hon'ble V. Ramiengar, C.S.I.
The Hon'ble W. R. Arbuthnot.
The Hon'ble Mir Humayoon Jah Bahadur.
The Hon'ble G. N. Gajapati Rao.
The Hon'ble J. G. Coleman.

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The Hon'ble Messrs. H. S. Cunningham, V. Ramiengar, Mir Humayoon Jah Bahadur, G. N. Gajapati Rao, and W. R. Arbuthnot took their seats as Additional Members of Council, on re-appointment.

The Hon'ble D. F. Carmichael and the Hon'ble J. G. Coleman took their seats as Additional Members of Council.

COURT OF WARDS BILL.

The Hon'ble H. S. CUNNINGHAM, in introducing a "Bill to amend and consolidate the law relating to the Court of Wards," said;—

"My Lord—When I obtained leave to introduce this 'Bill to amend and consolidate the law relating to the Court of Wards', I laid before Your Excellency and the Council the reasons which rendered its introduction desirable. There are several grounds for bringing in this Bill. The first is that the law at present is contained in three or four Regulations and Acts, ranging over a period from 1804 to 1858, the provisions of which are not entirely consistent, and frequently give rise to mistakes in dealing with them. The principal of these grounds, however, is that the Court of Wards, in whom the administration of this branch of the law is vested, have found by practical experience that the existing law is in many important particulars defective or inconvenient. In the first place, the area of the Court's jurisdiction is impracticably large. The principal Regula-

tion was framed some seventy years ago to deal with a very different state of things from that at present existing. Owing to extension of the area of cultivation and other causes, the ryot-holdings have enormously increased, and the result is that the Court of Wards has thrown upon its hands a vast number of estates without any adequate machinery for dealing with them. This is the more serious, because at present if an estate is liable to be dealt with by the Court of Wards, the important remedy of sale for arrears of land revenue is lost. It is proposed, therefore, to exclude all estates paying less revenue to Government than 1,000 Rs. a year, or, in the case of other estates, all estates whose annual rent-value is less than 3,000 Rs. This will sweep off a large number of estates at once, and reduce the area of the jurisdiction of the Court of Wards to practical limits. Whether Your Excellency will consider it proper that all estates under this limit should be excluded from the jurisdiction of the Court of Wards, and that their proprietors should lose the benefit of the Court's protection, is a matter upon which I do not feel myself competent to offer an opinion. The Revenue authorities will be better able to do this; and if the Bill be, as I hope the Council will decide, referred to a Select Committee, it can be considered there. Another defect in point of detail, which the Bill is intended to correct, is that at present the Collector of the District cannot deal with an estate needing protection, without first making a report to the Board of Revenue in its capacity of Court of Wards; nor can the Board deal with it, without in their turn submitting the case for the orders of Government. Meantime a system of pillage sets in. There are always a number of sharpers who hang about rich minors, and these make hay while the sun shines. The bill, therefore, proposes that Collectors shall be competent, pending orders from the Board, to at once take such preliminary steps, as estimating the assets and putting proper persons in charge, as will protect the property of wards from being plundered.

"The Board of Revenue have suggested various amendments upon the Bill as originally drawn, which I felt it would be more respectful to them to print in the Bill and lay before Your Excellency and the Council. I don't agree in some of these amendments; but the Committee which may be appointed will take them into consideration and deal with them. I may point out some of the amendments in the propriety of which I do not agree. For example, look at clause (*f*) at page 2 of the Bill. It proposes that persons convicted of a non-bailable offence shall, if the Governor-in-Council consider them disqualified for managing their own estates, be taken under the control of the Court. As the law now stands, the right of man to deal with his own is jealously guarded, and his deprivation of that right on the ground of mental infirmity is fenced about with all sorts of cautions; but the provision in question introduces a new law; and it seems to me that it is a power which Your Excellency in Council will be very

slow to call into being. Clause (e) is another of these amendments. It provides that persons rendered incapable by physical defects or infirmities for managing their own estates shall be subject to the Court. But who is to judge of this incapacity? Such a change in the law is extremely questionable, and this point amongst others will have to be considered in Committee.

"There is another improvement which the Bill will effect, and to which I ought to refer. At present there is no machinery for dealing with estates situate partly in one district and partly in another. This defect will now be removed, as the proposed enactment gives the Court of Wards power to direct the Collector of either of the districts in which the property is situate to superintend the whole estate. Again, if an estate paying an undivided assessment is partly owned by a minor and partly by another not subject to the Court, the Court of Wards at present is not in a position to interfere in protection of the minor's interests. This is a distinction which the Court of Wards considers should be no longer maintained; and the Bill proposes accordingly to empower the Court of Wards to step in and superintend the whole estate until the minor attains his majority.

"These are all suggestions emanating from the Board of Revenue; and they form the principal points to be dealt with in the Bill. As they emanate from those who have the most intimate acquaintance and practical experience of the matters dealt with, the Council has the best possible guarantee of the real necessity of the change and of the care with which the suggested alterations of the law have been made. I move that the Bill be introduced, and that it be referred to a Select Committee consisting of the following Members:—

The Hon'ble D. F. Carmichael,
The Hon'ble G. N. Gajapati Rao.
The Hon'ble V. Ramiengar,
and myself."

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The Motion was put and agreed to.

INTOXICATING DRUGS BILL.

The Hon'ble D. F. CARMICHAEL moved for leave to introduce a "Bill to regulate the manufacture and sale of intoxicating drugs and preparations within the Presidency of Madras."

In moving for leave for the introduction of this Bill, the Hon'ble D. F. Carmichael said:—

"This is an extensive Bill. It is founded on a long correspondence with the Board of Revenue, and it is of great importance to the revenue and to the people who indulge in the use of intoxicating drugs. At the close of 1873, the Government of India, having found that the use of intoxicating drugs frequently incited

crime, called upon all local Administrations to discourage the consumption of ganjah and bhang, by placing restrictions on their cultivation, preparation, and retail, and by imposing on their use as high a rate of duty as could be levied without inducing illicit practices. Subsequently the Board of Revenue, Madras, placed before Government reports from the several Collectors, which showed that a traffic in opium and intoxicating drugs was being carried on in the different districts, and that this was especially the case in Madras and its environs, the revenue being defrauded to a considerable extent. The object of the Bill proposed by me is to place the manufacture and sale of hemp, ganjah, bhang, and all other intoxicating drugs and preparations in this Presidency under proper regulation and management, by a system of licenses and penalties for breach of such licenses, or for trafficking without proper licenses. The Bill also provides for restrictions being placed on the transport, possession, and use of such articles. It is based on the provisions of Act III of 1852 which applies to Bombay, and Act XXI of 1856 which applies to Bengal; and, as suggested and recommended by the Board of Revenue, it provides for the traffic in opium, equally with that in hemp and its preparations, being brought under regulation. I ask leave to bring in this Bill; and when it is printed and published hereafter, it will be open to the public to examine and criticise its provisions."

The Motion having been put, leave was granted to introduce the Bill.

BILL TO AMEND REGULATION I OF 1819.

The Hon'ble D. F. Carmichael also moved for leave to introduce a Bill to amend Regulation I of 1819. In doing so, he said:—

"The object of this Bill is to provide for the separate assessment to land revenue of portions of permanently settled estates, which are alienated by their owners, and to relieve the owner of the estate from liability to the land revenue in respect of the separated portion, as well as to protect the owner of the separated portion from its liability to be sold by the Collector on account of the land revenue of the estate to which it originally belonged. By Regulation XXV of 1802, constituting the permanent settlement, Zemindars acting in conformity with Hindu law, were at liberty to transfer their proprietary right in the whole or any part of their estates, by sale, gift, or otherwise, provided such transfer was first registered by the Collector, and the transferred portion separately assessed by him. By Regulation XXVI, however, of the same year, a further restriction was imposed, viz., that no alienation was to be valid, unless the separated portion bore a land tax of 500 Pagodas, or Rupees 1,750 per annum, and upwards; and that, if the transfer was of less extent, the proprietor of the original estate was to continue liable for the entire amount of the land revenue

payable, as if the separation had not been made. This proviso was considered impolitic and inexpedient; and in course of time, Regulation I of 1819 came to be passed, to modify the old Regulations and 'to facilitate the realization of the land revenue,' as was expressly stated by the enactment. This modification, however, consisted in allowing Zemindaris and other permanently settled estates to be sub-divided into portions of not less than one village or dependent hamlet. Though this concession was an advance on the old law, it still worked hardship to the transferor as well as the transferee. Suppose a Zemindar dies, and his son comes in: he looks about him and takes stock, and finds that several alienations have been made by his father. He goes to his lawyer, who tells him that he can impeach, say, one-fifth of these alienations, but that he has no remedy in respect to the other four-fifths; and in so far as any portions of this four-fifths comprise areas of *parts* of villages, he has, under the present law, to go on paying revenue on what can never come back to him. Then as to the alienee, he may be sold up at any time, because the Zemindar, or original proprietor, falls into arrears with the public revenue. Thus a revenue sale may at any time destroy a title which has otherwise become perfect; and this may happen not only in the case of a gratuitous alienee, but a holder for valuable consideration, whose property, being less than a village or dependent hamlet, cannot be separated from the estate of which it formed part, so as to cease to be answerable for the Zemindar's peishcush. The chief objection put forward to the free sub-divisions of estates, is the alleged difficulty of collecting small items of revenue. But experience has proved that there is no such difficulty. About two and a half millions of our ryots pay under 10 rupees each, many considerably under that sum; so that there is no difficulty whatever, under our Revenue system, in realizing the smallest sums. The Bill proposes to give the required relief in both cases, by repealing Regulation I of 1819, and further providing that, in any case of fraud or error in the apportionment of separate assessment, the Government shall have power to re-adjust the same. As the required remedy is much needed, and there is no difficulty whatever in passing the provisions of the proposed new law, I move that the Standing Orders be suspended, and that the Bill be introduced."

His Lordship the PRESIDENT having declared the Standing Orders suspended, the Hon'ble D. F. CARMICHAEL moved that the Bill be referred to a Select Committee consisting of the following Members:—

The Hon'ble H. S. Cunningham,
The Hon'ble G. N. Gajapati Rao,
The Hon'ble W. Robinson,
and himself.

The Motion was put and agreed to.

LOCAL FUNDS ACT AMENDMENT BILL.

The Hon'ble W. Robinson, C.S.I., moved for leave to introduce a "Bill to amend the Madras Local Funds Act, IV. of 1871;" and in doing so, he said;—

"This Bill is merely to supply an omission in the Local Funds Act. According to Section 36 of that Act, a one-anna-in-the-rupee rate is levied on the annual rent value of all occupied land, whether ryotwari, inam, or other tenure. Section 38 of the Act prescribes how this rent-value is to be calculated, and it will be found that it consists of the assessment payable, together with any water-rate that may be demanded on the property. In the third clause of this section, which deals with lands "held on any other tenure" (than Ryotwari and Inam), all mention of water-rate is omitted; so that in the case of Zemindari lands, where the ryots pay their rent to the Zemindar, it is doubtful whether we can levy the one-anna cess on the water-rate payable by them, whether through the Zemindar or direct to Government. It is quite obvious that it is an oversight in the wording of the Act, and we must rectify it. The Bill has a further section providing for exceptional circumstances, such as where Zemindary ryots pay their water-rate direct to Government. The additional section provides for levying the one-anna cess on the water-rate also direct, instead of through the landlord. As the matter is a simple one, and in order to save further delay, I move that the Standing Orders be suspended, and that the Bill be introduced at once."

His Lordship the President having declared the Standing Orders suspended, the Hon'ble W. Robinson moved that the Bill be referred to a Select Committee for report in a fortnight; the Select Committee to consist of the following Members:—

The Hon'ble H. S. Cunningham,
The Hon'ble V. Ramiengar,
The Hon'ble G. N. Gajapati Rao,
and himself.

The Motion was put and agreed to

MADRAS WIDOWS' AND ORPHANS' FUND INCORPORATION BILL.

In moving for leave to introduce a "Bill to incorporate the Madras Widows' and Orphans' Fund," the Hon'ble J. G. Coleman said;—

"The Madras Widows' and Orphans' Fund has a capital of thirteen lacs of rupees, and for some time past has labored under serious disabilities in consequence of not being incorporated. There have been great defalcations, and the serious case which has recently been brought to light has impressed on the officers and subscribers of the Fund the great danger of further delay in the matter. There

exist very cogent reasons why incorporation is imperative. *First*,—The Fund cannot at present hold any property in its own name, but is obliged to resort to the intervention of Trustees. Were it incorporated, it could invest and hold Government Securities and other property in its corporate name, and obviate the employment of Trustees. *Second*,—It cannot now become a party to legal proceedings, or to contracts, and therefore cannot recover by legal process any money that may become due to it; nor can its subscribers or accountants have recourse to law for the enforcement of their just rights and dues, with any certainty of success, in the event of such rights being withheld. Were it incorporated, it could sue and be sued in its corporate name. *Third*,—Should any misfortune happen to the capital of the Fund by reason of neglect or misconduct on the part of its officers, agents, or others, the private property of every subscriber would be responsible for losses, as in the case of ordinary partnerships. By incorporation, individual members could not be held responsible for the acts, or default, of the corporation. This exemption from individual liability is a great desideratum, and would protect members of the body corporate from the risks of unlimited partnerships. *Fourth*,—By incorporation, it will maintain in perpetuity the uninterrupted enjoyment of its rights, property, and privileges. *Fifth*,—At present the property of the Fund has to be invested in Government Securities in the name of three subscribers. Suppose one of them dies, becomes insolvent, or leaves India, there is no provision for the appointment of a new Trustee. It would be absolutely necessary to file a suit in equity, if the survivor, or the administrator of the survivor, or Official Assignee of any insolvent trustee, refused to endorse or assign over the Trust funds to any particular individual acting in his place. It is certain that he would not be bound to do so without a decree for his protection. Incorporation would preclude the possibility of such a contingency. *Sixth*,—Should any subscriber now have to sue in respect of some individual right personal to himself, and not affecting the general interests of all, he must bring all the subscribers before the Court, as he has not a common interest with all. If the Fund were incorporated, it could sue in its corporate name on behalf of any of its members, who would then have a common interest in each other. *Seventh*,—It is the opinion of counsel that the salvation of this Fund depends on its being incorporated, and that it cannot be said to be safe until it obtains an Act of Incorporation. This is the Bill, my Lord, which I propose to introduce, if leave be given me to do so."

The Hon'ble H. S. Cunningham seconded the Hon'ble J. G. Coleman's proposition, and added—

"The incorporation of the Madras Widows' and Orphans' Fund is most desirable. It used to be said that a corporation was an inconvenient entity, in that it

could neither be damned in the next world, nor kicked in this. But the object of the incorporation sought in this Bill is to render the Fund and its officers more amenable to the Courts. The recent prosecution of its Secretary shewed how necessary it was that this Fund should be incorporated. I conducted that prosecution, and it convinced me that the interests of hundreds of widows and orphans were endangered, and that they needed efficient protection. Most of these are in straitened circumstances, and the loss of their annuities would be a real disaster. I think that my Hon'ble friend, Mr. W. R. Arbuthnot, was once a Trustee, or had some connection with the Fund, and was convinced of the dangerous position in which it stands for want of being incorporated. All connected with this Fund must feel to what a terrible risk, perhaps ruin, these many widows and orphans would be exposed were they to lose their money. I haved looked through the Bill, and I find that it provides for all that is wanted."

The Hon'ble W. R. ARBUTHNOT remarked that the Hon'ble H. S. Cunningham was mistaken in supposing that he had been a Trustee of the Widows' and Orphans' Fund, but that he agreed in all that had fallen from his Hon'ble friend.

The Motion having been put, leave was granted to introduce the Bill.

His Lordship the PRESIDENT then declared the Meeting adjourned *sine die*.

(By order.)

W. M. SCHARLIEB,
Asst. Secy. to Government,
Legislative Department.

The 23rd February 1875.

MADRAS ... OFFICE

Madras—Printed by E. KEYS, at the Fort St. George Gazette Press.

Abstract of the Proceedings of the Council of the Governor of Fort St. George, assembled for the purpose af making Laws and Regulations, under the provisions of the Act of Parliament 24 and 25 Victoria, Cap. 67.

The Council met at the Council Chamber at Ootacamund on Thursday the 17th day of June 1875.

PRESENT.

His Excellency the Governor of Madras, C.S.I.—*presiding.*
His Excellency the Commander-in-Chief.
The Hon'ble R. S Ellis, C.B.
The Hon'ble W. Hudleston.
The Hon'ble H. S. Cunningham.
The Hon'ble D. F. Carmichael.
The Hon'ble V. Ramiengar, C.S.I.
The Hon'ble Mir Humayoon Jah Bahadur.
The Hon'ble J. G. Coleman.

MADRAS RECORD OFFICE

LOCAL FUNDS ACT AMENDMENT BILL.

The Hon'ble H. S. Cunningham presented the Report of the Select Committee on the Bill to amend the Local Funds Act; and in doing so, said;—

"Your Excellency explained fully on a former occasion the grounds on which it was considered necessary to introduce this Bill. Its object is to amend one of those small inaccuracies which are apt to creep into the most carefully drawn enactments, and occasionally produce inconvenience and call for legislative action. In the present instance the inaccuracy is this. The Madras Local Funds Act, IV of 1871, provides in Section 36 for the levy of a rate or cess not exceeding one anna in the rupee on the annual rent value of all occupied land on whatever tenure held. Section 38 points out how this rent value is to be ascertained: clause 1 provides that in case of lands held direct from Government under a ryotwari settlement, the annual rent value shall be the land revenue assessment together with any water-rate payable for irrigation; clause 2 provides, in the case of inam lands, or lands wholly or partially free from assessment, that the Government assessment which the lands would bear if not inam, together with the water-rate payable for irrigation, shall be the rent value; but the 3rd clause, which deals with tenures other than ryotwari or inam, omits all reference to the water-rate, and makes the annual rent value consist of the rent alone. The result of this omission is that in Zemindari lands, where the tenants pay rent to the Zemindar and a water-rate, either to Government, or the Zemindar, it is illegal to calculate the assessment under the Local Funds Act on what was justly, and in all other tenures actually, the annual value of the lands. The loss of revenue thus occasioned is insignificant, except

perhaps in the Godavery District; still it is a needless loss, and the Board of Revenue point out that it may hereafter, if the law is left unaltered, become more serious in extent; and the Council will probably agree with the Board in considering that it is undesirable to allow to a section of the community an exemption, inadvertently occasioned, from a tax, which others, similarly situated, have to pay.

"The Committee recommend one or two alterations in the Bill as introduced. Clause 3, as originally drawn, was so worded as to leave it open to doubt whether it applied to cases in which the water-rate was paid to Government by the landlord. This would clearly have worked unfairly; if the landlord himself pays the water-rate and charges his tenants a proportionately higher rent, it is obvious that that higher rental includes the water-rate, and that if the assessment is calculated on that higher rental plus the water-rate, the water-rate is counted twice over, and the basis of taxation calculated improperly high for the landlord. The section, as it now stands, is confined to cases in which the tenants pay rent to the landlord and water-rate to Government; in which case it is quite right, in analogy with the other tenures, that the assessment should be calculated on the rent and the water-rate as the real value of the land.

"The original Bill contained a provision that when a cultivator or other under-tenant paid a water-rate direct to Government, the Government might collect direct from such person the sum leviable, under Section 36 of the Local Funds Act, on his land in respect of his water-rate, or in respect of his rental, or in respect of both. Exact provision is made in the Act, Sections 47 to 50, for the collection of the cess leviable under Section 36 from the landholder, and for enabling the landholder to recover the proportionate part of the cess from his tenants; and with this, we think, it is unnecessary and undesirable to interfere. We recommend the omission of this section. Subject to these alterations, we recommend that the Bill be passed."

The Hon'ble V. Ramiengar here desired to suggest for the consideration of the Council whether, in the event of the Bill as amended by the Select Committee being passed, Zemindars and others coming within the meaning of Clause 3 of Section 38 of the Local Funds Act would not be entitled to claim the remission allowed by Section 48 of the same Act, not only on so much of the rent value as was equal to the peshcush, but also an amount equal to the peshcush *plus* the amount of water-rate paid by them to Government.

A discussion then ensued, in which the Hon. Mr. Ellis, the Hon. Mr. Hudleston, the Hon'ble Mr. Carmichael, and the Hon. Mr. Cunningham took part; whereupon

The Hon'ble Mr. Hudleston moved that the Bill should be re-committed for the consideration of the Select Committee.

The Hon'ble Mr. Ellis supported this motion, and observed that, while on the subject of re-committal, it occurred to him that it would be wise to bring the

whole Local Funds' Act under consideration again, in view to an increase of rates for educational purposes. He thought, therefore, that it would be better to postpone this short Act until the entire question was re-considered. He mentioned this, in order to take the sense of the Council before going into the amendments of which the Hon'ble Mir Humayoon Jah Bahadur had given notice.

The Hon'ble MIR HUMAYOON JAH BAHADUR stated that he had no objection to postpone the consideration of his amendments; but on the Hon. Mr. Cunningham expressing his opinion that the sense of the Council should be taken on the Hon. Member's amendments for the future guidance of the Select Committee, His Excellency the President called on the Honorable Member to move his amendments. The Hon. Mir Humayoon Jah Bahadur then addressed the Council as follows:—

"Your Excellency,—Any observant traveller who has passed through the country before any Municipal law, under the designation of Towns Improvement or other Act, had come into force, would now be able to tell, even by a hurried glance over the country, what an amount of good and useful work has resulted for the convenience and health of the people under the operation of our Municipal enactments. Those Municipal regulations which preceded Acts III and IV of 1871 were neither so strict nor went so far as these, merely because the country people with whom we had to deal in those days were ignorant of such measures and equally ignorant of the beneficial results flowing from such measures. It was not expedient therefore in those days to do anything, or pass any law, however advantageous to the people, which they would look upon as both new-fangled and embarrassing. The old Municipal regulations had meantime however worked successfully; people began to see and appreciate the valuable results of sanitary laws; and the Legislature, after the experience of many years, were emboldened to enact the present Towns Improvement Acts, in the comprehensive and complete form which does such great credit to their framers. I would now take the opportunity afforded by the Bill under consideration, to respectfully suggest to the Council that provisions similar to the amendments proposed by me should be added to the Bill. These provisions will not be looked upon as novel in the present day, as some of them already exist in the Towns Improvement Act or in other Municipal Regulations; and as the Local Funds Act has now been working in the country for more than four years, I think it is time to carry improvement a little further. Many villages on the banks of rivers and streams, and in the neighbourhood of water channels and large tanks, and in low lying ground, are so situated as to expose a portion of them at least to being inundated and washed away during unusually heavy rains. Sometimes rivers overflow their banks and injure and destroy villages, as happened during the least three seasons in the case of many villages in the vicinity of the Palar and other rivers, when even such towns as Vellore, Vaniembady, Cuddalore, and Nellore suffered severely. Villages have their ponds and hol-

lows which serve to catch a supply of fresh water during the rains, but which in the hot season turn into stagnant pools emitting forth noxious gas and odours. Filthy heaps of rubbish and refuse, lying about in almost every village backyard, add their fatal contribution, especially when in a state of putrefaction from the action of the sun and rain, to the unhealthy condition of the neighbourhood. Then, when cholera and small-pox make their dire appearance in these localities, these scourages seldom quit the unfortunate villages without causing serious loss of life. This is more especially the case when small huts, 8 or 10 feet square, are occupied by half a dozen persons or more, which unhappily is of very frequent occurrence in small villages. It is an evil that helps to the rapid and extensive spread of disease, and should therefore be arrested by effectual steps for its prevention. In an age when even famine and other calamities of similar magnitude are successfully met and grappled with, by measures of food supply and medical skill devised by man's ingenuity, for the purpose of alleviating human misery and saving human life, a glorious incident whereof in the last year has been imprinted on the pages of Indian history, it seems to me that it will not be in vain to attempt to remedy the present unhealthy condition of villages and their fatal influence on the lives of human beings concentrated in them. If more attention were paid to sanitation and conservancy in our villages, many lives might be saved out of the thousands now carried off year after year by cholera, small-pox, and other such fatal diseases. I am glad to be able to observe that a great deal has been accomplished in this direction of late years, and that the subject continues to receive such attention at the hands of Government that steady progress is being made in the work of improvement. It is, however, such a difficult task, that much still remains to be done everywhere. The progress is not fast enough, chiefly owing, I suppose, to the conservative habits and to the poor and illiterate condition of the people.

"I should have consulted with your Excellency's Government and obtained permission to introduce my proposed amendments, had I time enough to prepare and do so after arriving at the conclusion that I should move in the matter. I venture, however, without such previous permission, to bring forward the provisions which in my humble opinion should find a place in the Amendment Bill. It seems to me that they are most important, and that no time should be lost in bringing them into effect. What I should desire to see is, that there should be Local Boards possessing the following powers of interference and control in villages, *viz*:—

1. Power to prevent the erection of huts and dwellings in localities where they are either liable to be washed away, or, if allowed to stand, are likely to prove nuisances to the neighbourhood.

2. Power to thin blocks of overcrowded huts or houses calculated to engender disease, or injure the health of the inhabitants.

3. Power to cause the removal of filth and refuse, and to utilize the same in fields or other such places.

4. Power to close up, or clear out, filthy stagnant pools or ponds, whether private or public property.

"I submit that, as these provisions merely tend to the placing of certain powers of very essential conservancy in the hands of Local Boards, to be used with discretion as occasion may require with the previous sanction of the Government, they may be safely brought into law. The exercise of these powers will do much good, and certainly cannot do any harm whatever. With these explanatory remarks, I beg to submit that my amendments do receive the approbation of your Excellency and of the Council."

The Hon'ble Mr. Ellis said that he would not detain the Council with any lengthened observations. He had not had as much time as he could have wished for the consideration of these amendments; but from the consideration he was able to afford them, they did not commend themselves to him. He was happy to see that his honorable friend recognized the good effected by Municipalities, and that his object was to extend the benefit of such institutions. He would be happy to support this extension in small towns; but as we had not the requisite machinery in villages to carry out such reforms, they would simply be harrassing to the unfortunate inhabitants. The amendments proposed were excellent in themselves, but we would not be justified to introduce into small villages provisions which could only be worked in large towns. When any glaring nuisances are committed in villages, there was already power, under the existing law, to apply to the Magistrate for their abatement, and this was quite enough for the purpose at present.

The Hon'ble W. Hudleston, the Hon. V. Ramiengar, and His Excellency the Commander-in-Chief expressed their entire concurrence with these observations; whereupon the Hon. Mir Humayoon Jah Bahadur withdrew his amendments, observing that as the policy of Government appeared to be to extend the Towns Improvement Act wherever it was possible to apply its provisions, much of what he wanted seemed to be in a fair way of being met in time. His Excellency the President was thankful that the honorable member was prepared to meet the sense of the Council, and was content for the present to leave it to Government to extend municipal provisions as might be advisable, and added that, for himself, he would be afraid to place the proposed powers in the hands of village communities as at present constituted.

On the Hon'ble W. Hudleston's original motion, seconded by the Hon'ble R. S. Ellis, the Bill was ordered to be recommitted to the Select Committee.

It was then proposed by the Hon. V. Ramiengar, seconded by the Hon. R. S. Ellis, and carried, that the Hon W. Hudleston be added to the Select Committee.

COURT OF WARDS BILL.

The Hon'ble H. S. Cunningham, in presenting the report of the Select Committee on the "Bill to amend and consolidate the law relating to the Court of Wards," said:—

"The Report of the Select Committee sets out with such great minuteness the various amendments which it is proposed to make in the Bill that it will be unnecessary for me to trouble your Excellency and the Council with a detailed statement on the subject. The Committee has examined the Bill with great care, and none too great, for the questions involved are of the utmost importance. We have thought it necessary to make considerable alterations in the structure and arrangement of the Bill. One of these is that we have drawn a clear distinction between those persons who are subject to the jurisdiction of the Court of Wards and those who are not. In the case of disqualified proprietors paying revenue to Government, the Court, as the law now stands, deals with them and their property; but it has no concern with the property of those who do not pay revenue to Government. These disqualified persons have to go to the Civil Court, and are looked after there by a different process. All these provisions are mixed up in different Regulations passed in 1804 and 1831; and it was difficult even for the Committee to trace them and to refer to their provisions. We have therefore consolidated the whole law, and dealt with the latter class of proprietors in Part VIII of our Bill.

"In regard to minors, the Board of Revenue were anxious to restrict their jurisdiction within certain limits, as, under the existing law, very small estates, which seemed scarcely to be deserving of official superintendence, are thrown on their hands; and they wished the Legislature to define distinctly with what estates they should hereafter deal. We have, therefore, in the first place, defined what *disqualification* means. We have extended the category of disqualified persons, partly on the recommendation of the Board of Revenue, and partly on a reference to the provisions of the Act applicable to the North-Western Provinces. Thus, in Section 4, we have (clause *d*) added persons whom the Government may consider disqualified by physical defect or infirmity; (clause *e*) persons convicted of a non-bailable offence and who are of bad character; and (clause *f*) persons who feel themselves unequal to the management of their property. We considered it desirable to include persons convicted of non-bailable offences, in order that during their term of imprisonment or banishment, their property should be properly protected for their heirs; and we also thought it well to include persons who are unequal to manage their estates in order to save them from ruin, as a notable

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example of such a contingency had recently presented itself to us in the case of the Ramnad Estate.

"Then arose the question, in what cases shall the Court of Wards act? After a full consideration of the wishes of the Board of Revenue, the Committee thought that no estate shoud be excluded from the jurisdiction of the Court of Wards on any mere consideration of the amount of revenue paid by it to the Government, as the amount of revenue payable was by no means a criterion of the importance of the estate. Then followed the question, should any other estates be included, and what? The Committee thought that all property whose annual rent value was 1,000 Rupees a year and upwards should be subject to the Court of Wards, although the Government are not directly concerned in such estates. We have ventured to introduce some exceptions to the provisions of the present law; for instance, we propose to exclude from the jurisdiction of the Court of Wards, members of an undivided Hindu family, one of whom is not disqualified; so also we propose to exclude from the operation of the Act owners of property liable to a joint assessment to land revenue. The Bill then goes on to provide for the Collector holding an inquiry into the age and circumstances of any person whom he has reason to think disqualified, which is a continuation of the existing law. Pending this enquiry, we have provided for the Collector taking immediate steps for the protection of the property, until the final orders of the Court of Wards and of the Government can be had.

"Part II of the Bill deals with managers and guardians of disqualified persons; and Parts III and IV with their duties and responsibilities. It is not necessary for me to go into further details in respect to the frame and scope of the Bill, as the Report of the Select Committee fully sets forth the changes contemplated in the law. I do not ask that the Bill be now passed. I only move for its being so far taken into consideration that the Council direct its publication and circulation, in view to obtaining the opinion of Revenue Officers of experience and others familiar with the subject, so that the soundness and completeness of the measure may be fairly tested before it is passed into law."

The Hon'ble R. S. Ellis regretted that the discussion of the Bill should be postponed until opinions were elicited by its publication and circulation. He wished to remark on clauses *d* and *e* of section 4, and said that some more accurate definition of *physical defect* or *infirmity* was required. He asked what sort of defect should it be to warrant the interference of the Court of Wards; and was the Court to retire from the management when the defect ceased? As to persons convicted of non-bailable offences, the law had provided very sufficient punishment for persons of that class, and it appeared very questionable whether the additional punishment should be imposed of depriving them of the management of their property. There was nothing in the Statement of Objects and Reasons to

justify this step. As to disqualification by vice or bad character, the Hon. Member had no pleasure in pleading the cause of the vicious, but he must say that the Bill proposed to confer enormous powers in this respect; and he objected to the clause, even on the explanation that the presence of both conditions was necessary to exclude, *viz.*, conviction of non-bailable offence, as well as vice or bad character. He thought that the Government should not follow, with coercive measures, the native landholder, who would come under the proposed law, throughout his whole career; and it could hardly be intended that such a man should, after paying the full penalty of his offence, be permanently excluded from the management of his own property and be placed under the dominion of the Court of Wards.

The Hon'ble W. Hudleston here pointed out that Section 15 empowered the Court of Wards to withdraw from the management of an estate at any time; upon which the Hon. R. S. Ellis observed that, although his objection was rendered less forcible, he was still opposed to the clauses in question, but would await the results of the publication of the Bill.

The Hon'ble W. Hudleston inquired whether this was the proper time to point out detailed defects in the Bill. There were many defects which he was prepared to point out, *e. g.*, the second exception to Section 6 provided that joint owners were not subject to the jurisdiction of the Court of Wards. As the clause stood, it would appear that even if all the joint owners were minors, the Court of Wards could not interfere. If it were said that the interests of these joint owners was a matter for the Civil Courts, then he would ask wherein did a minor joint owner differ from any other minor proprietor, and why should the one be under the Civil Court and the other under the Court of Wards? Could not these objections and any other objections that might occur to the Council be also referred to the Select Committee?

His Excellency the President here observed that to open a discussion on each of the sections of the Bill would not only make the discussion a most lengthened one, but it would be resolving the Council into a Select Committee. It appeared to His Excellency that whatever opinion or objections occurred to any Member of the Council, they might well be referred for the consideration of the Select Committee.

The Hon'ble Mr. Cunningham's motion to publish and circulate the Bill was then seconded by the Hon. Mr. Ellis, and carried.

The Hon'ble Mr. Cunningham moved, and the Hon. Mr. Carmichael seconded the motion, that the Hon. W. Hudleston be added to the Select Committee. Motion carried.

INTOXICATING DRUGS BILL.

The Hon'ble D. F. Carmichael said that he had obtained leave at the last meeting to bring in a Bill to regulate the manufacture and sale of intoxicating drugs and preparations, and that he now begged to introduce the Bill. The Statement of

its objects and reasons was already in the hands of the members, and he would refer them to that Statement to explain the expediency of this measure. He proposed therefore that the Bill be now published for remarks and public criticism, and that it be referred to a Select Committee consisting of the following members :—

The Hon'ble W. HUDLESTON,
The Hon'ble the ADVOCATE-GENERAL,
The Hon'ble Mir HUMAYOON JAH BAHADUR,
The Hon'ble V. RAMIENGAR,
and himself.

The motion was put and agreed to.

MADRAS WIDOWS' AND ORPHANS' FUND INCORPORATION BILL.

In moving to introduce a Bill to incorporate the Society at Madras called the Madras Widows' and Orphans' Fund, the Hon'ble J. G. COLEMAN said :—

"At the last meeting of the Council, leave was granted me to bring in a Bill to incorporate the Society at Madras called the Madras Widows' and Orphans' Fund. I now beg leave to introduce that Bill, and to solicit permission to refer it to a Select Committee consisting of

The Hon. Mr. CUNNINGHAM, and myself,

with power to add to our number.

"I also move that it be published in the *Gazette* for the information and criticism of all persons interested in the Society, after the Committee shall have examined the provisions of the Bill. I do not ask for the immediate publication of the Bill, because additions and alterations of vital importance, conducive to the interests and stability of the Society which is now undergoing revision, will have to be introduced, after which alone the Bill will be complete for discussion."

The Hon. Mr. CUNNINGHAM supported this motion, and asked for a suspension of the Standing Orders, in order that the Bill be referred to a Select Committee before its publication; but the Hon. V. Ramiengar and the Hon. R. S. Ellis opposed any suspension of the standing orders, and pointed out that, under Rule XXII, the Bill ought to have been printed and a copy sent for the use of each Member before its introduction. The sense of the Council being that no sufficient case had been made out for departing from the regular course, the Hon. Mr. Coleman stated that he had no objection to the Bill being published at once, preparatory to a discussion of its provisions.

The Hon. W. HUDLESTON observed that it was not for the Council to order the publication of the Bill at its present stage; but he pointed out that, under Rule XXV, a Bill could be sent to the Assistant Secretary when the Council was adjourned, and that the Governor could order its publication if he saw fit.

It was finally agreed that the Bill, owing to an informality, could not be introduced at this meeting of the Council.

His Excellency the President, in his capacity of Governor, then directed the Assistant Secretary, with reference to Rule XXV, to publish the Bill with the Statement of Objects and Reasons in the Official *Gazette*, on receiving the Bill from the Hon. Mover.

His Excellency the President then declared the meeting adjourned *sine die.*

(By Order)

W. M. SCHARLIEB,
Assistant Secretary to Government,
Legislative Department.

Ootacamund,
17th June 1875.

Madras—Printed by E. Keys, at the Fort St. George Gazette Press.

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Abstract of the Proceedings of the Council of the Governor of Fort St. George assembled for the purpose of making Laws and Regulations, under the provisions of the Act of Parliament 24 *and* 25 *Victoria, Cap.* 67.

The Council met at the Council Chamber in Fort St. George, on Tuesday, the 16th day of November 1875.

PRESENT:

His Excellency the GOVERNOR OF MADRAS—*presiding*.
His Excellency the COMMANDER-IN-CHIEF.
The Hon'ble R. S. ELLIS, C.B.
The Hon'ble W. HUDLESTON.
The Hon'ble D. F. CARMICHAEL.
The Hon'ble V. RAMIENGAR, C.S.I.
The Hon'ble MIR HUMAYOON JAH BAHADUR.
The Hon'ble G. N. GAJAPATHI RAU.
The Hon'ble J. G. COLEMAN.
The Hon'ble P. MACFADYEN.

NEW MEMBER.

The Hon'ble P. MACFADYEN took his seat as an Additional Member of Council.

BILL TO AMEND REGULATION I. OF 1819.

The Hon'ble D. F. CARMICHAEL presented the Report of the Select Committee on the "Bill to amend Regulation I. of 1819," or, as it was now entitled, a "Bill to make better provision for the separate assessment of alienated portions of permanently settled Estates."

In doing so, the Hon'ble Member mentioned that he had obtained leave in February last to introduce this Bill and to refer it to a Select Committee; that the Bill had been published, in order to invite public criticism on its provisions; but that none had been received from the public. The Board of Revenue, however, had offered certain suggestions which were taken into consideration by the Select Committee, and in accordance chiefly with which the Bill had been amended in Committee. The Rule was that a Bill could not be taken into consideration until the Report of the Select Committee had been one week at least in the hands of the Members. The Hon'ble Member did not consider the matter so pressing as to call for any suspension of the Standing Orders, in order to push the Bill through at once.

He therefore proposed that the Amended Bill and Report of the Select Committee be published, in view to the measure being taken up at the next Meeting of the Council.

The Motion was agreed to.

MADRAS WIDOWS' AND ORPHANS' FUND INCORPORATION BILL.

The Hon'ble J. G. COLEMAN introduced the Bill to incorporate the Madras Widows' and Orphans' Fund, and moved that it be referred to a Select Committee consisting of the following Members :—

The Hon'ble H. S. CUNNINGHAM,
The Hon'ble P. MACFADYEN,
and Himself.

The Motion was put and agreed to.

BILL TO AMEND THE MADRAS MUNICIPAL ACTS.

The Hon'ble D. F. CARMICHAEL moved for leave to bring in a Bill to amend the Madras Municipal Acts (IX. of 1867 and V. of 1871). In doing so the Hon'ble Member said :—

"I do not propose to trouble the Council with any lengthy remarks on the details of the scheme. I will leave that to the time when I am prepared to introduce the Bill. Suffice it to explain that there is an urgent need for such a Bill.

"What immediately led to the proposal to have a revised Act, was a resolution of the Municipal Commissioners to ask Government to allow them to levy a toll on boats and rafts conveying goods between the shipping and the shore, (which is provided for in the Act of 1867,) in order to raise funds to pay interest due to Government on a large loan they had obtained for the Water-Works scheme. The Chamber of Commerce strongly objected to this proposal, and reminded Government of the proviso with which the Governor-General had passed our Municipal Act, *viz.*, that this power to levy sea-tolls should not be exercised by the Municipality. A sea-toll was considered to be a mere impost on trade for the purposes of the Municipality in return for no service whatever, being in fact an almost undisguised transit duty which was the least excusable, considering that Madras is difficult of access by sea, and that the expense and risk attending the landing and shipping of goods are at a maximum. Government then appointed a Committee consisting of a Chairman and ten Members, five of whom were Municipal Commissioners and five were outsiders, to revise the present Acts where the existing provisions were thought to be defective or objectionable, and directed their attention specially to four points :—

I. To cut out the sections relating to sea-tolls.

II. To amend the sections relating to special water-rate.

III. To consider the substitution of an Octroi on all articles brought into the town for consumption, in lieu of the professional tax and tolls.

IV. To modify the House Tax, so as to relieve the poorest inhabitants.

"Meantime the Municipal Commissioners themselves had appointed a Committee (from their own body) to reorganize their Establishment and system of work. That Committee proposed various changes in the constitution and executive agency of the Municipality calculated to effect considerable savings. A review of the Reorganization Committee's Report, and of the proposals of the Revision Committee appointed by Government, shows beyond all doubt that the income of the Municipality falls far short of the cost of even the restricted services which it at present performs, and that it will of course be utterly inadequate to meet the extended services which a city like Madras should be called upon to provide for itself.

"The average of six years' income is only Rupees 5,10,576, while the average charges have amounted to Rupees 5,68,171. It is thought that, providing only for the present services, with a larger outlay on *Road Repairs*, and including *Hospitals* and *Education*, future expenditure may be put down at something over 7 lacs. So here at once there is a startling deficit that has to be met. Then there are the *Water* scheme, the *Lighting* scheme, and the *Drainage* scheme to be provided for; and it is thought that the metropolis of Madras may well be called upon to contribute to the cost of the *Police*, which provides for the safety of its citizens and the protection of its accumulated wealth. Various other minor reforms have to be provided for, which need not now be entered into. It will be necessary to bring in a revised Municipal Act to legalize, and provide for, all these reforms. Beside the raising of taxes for *Water-supply*, *Lighting*, and *Drainage*, the chief feature of the new Bill will be the imposition of an Octroi, or *Town Duties*, on all articles of consumption entering the city limits. No other taxation is likely to be so remunerative, and at the same time so little oppressive and unpopular. The town duties levied in Bombay produce, it is said, about 15 Annas per head of the population; but taking only 12 Annas a head here, town duties would produce in Madras nearly 3 lacs of Rupees a year, or a tax sufficient in itself to meet the deficit in Municipal income."

The Hon'ble D. F. CARMICHAEL then moved that the Standing Orders be suspended and that the Bill be referred to a Select Committee; the Bill being meantime published in the *Fort St. George Gazette* for public information, and for the purpose of inviting opinions and criticism on its provisions.

On the suggestion of His Excellency the PRESIDENT, supported by the Hon'ble R. S. ELLIS and the Hon'ble W. HUDLESTON, it was agreed that the

publication of the Bill should stand over until certain modifications were introduced into it, after which the Bill could be published under Rule XXV.

Leave was granted to bring in the Bill.

His Excellency the PRESIDENT then declared the Meeting adjourned *sine die.*

(By Order)

W. M. SCHARLIEB,
Asst. Secretary to Government,
Legislative Department.

MADRAS;
The 16th November 1875.

MADRAS RECORD OFFICE

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Abstract of the Proceedings of the Council of the Governor of Fort St. George assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament **24** *and* **25** *Victoria, Cap.* **67**.

THE Council met at the Council Chamber in Fort St. George on Thursday, the 3rd day of February 1876.

PRESENT :

His Grace THE GOVERNOR OF MADRAS—*presiding*.
His Excellency THE COMMANDER-IN-CHIEF, G.C.B., G.C.S.I.
The Hon'ble Sir WILLIAM ROBINSON, K.C.S.I.
The Hon'ble R. S. ELLIS, C.B.
The Hon'ble W. HUDLESTON.
The Hon'ble D. F. CARMICHAEL.
The Hon'ble H. S. CUNNINGHAM.
The Hon'ble G. N. GAJAPATHI RAU.
The Hon'ble MIR HUMAYUN JAH BAHADUR.
The Hon'ble J. G. COLEMAN.
The Hon'ble P. MACFADYEN.

MADRAS RECORD OFFICE

PETITIONS.

The ASSISTANT SECRETARY reported, for the consideration of the Council, the following two petitions :—

No. 1—From certain persons describing themselves as merchants, landed proprietors, permanent inhabitants, and occupiers of houses in the Town of Madras (submitted through Mr. Job Solomon)—

Representing that, instead of affording relief to the poorer classes, the Municipal Bill before the Council proposes town duties, additional salaries to the Executive Officers of the Municipality, a water-rate, a lighting-rate, and a scavenger cess, and an increase of house assessment from 7½ to 10 per cent ; that the reforms of economy suggested by the Committee for the Reorganization of the Establishments of the Madras Municipality should be first carried into effect ; that by the careful husbanding of present resources a satisfactory equilibrium of revenue and expenditure could be effected ; and that the proper principle of taxation is to tax luxuries, not necessaries ; and

Praying—1, that the increased salaries provided in the Bill for the Executive Officers be not sanctioned ; 2, that the proposed water-rate, lighting-rate, and

scavenger cess be not levied; 3, that town duties on food and ghee be not sanctioned; and 4, that the cost of the drainage scheme be defrayed from Imperial Funds.

No. 2.—From the native inhabitants and rate-payers of Madras—the petition having been adopted and signed at a meeting held at Patcheappah's Hall (submitted through M.R.R. Hurry Row, the Chairman)—

Representing that the carrying out, in their entirety, of the views of Government as expressed in Financial G.O., 15th November 1875, No. 2205-A, and in the Draft Municipal Bill, will result in grievous oppression of the people; that increased taxation for the last 20 years has depreciated the value of the larger houses, and has caused such an overcrowding of the smaller ones as more than accounts for the high mortuary returns of Madras; that to carry out a drainage scheme to purify the atmosphere of Madras by taxing the "staff of life" will be no improvement in the mortuary returns; that the conditions of Mofussil towns are not the same as those of the Capital, in which there are the seat of Government, the public offices, a large garrison, and the centre of business, not merely for the permanent inhabitants, but as well for residents in the Mofussil and foreign parts who are constantly visiting it; that the maintenance of Hospitals and Schools for affording skilled medical advice and a superior education and the establishment of Lock Hospitals to protect the troops from contagious diseases are not a Municipal duty; and that the expansion of establishment necessary to collect Town duties will lead to more mismanagement and waste; and

Praying—1, that no town duties be levied in Madras; 2, that Hospitals and Schools be no longer Municipal charges; 3, that if the drainage scheme be a necessity the cost of it be defrayed from Imperial Funds; 4, that the Commissioners be invested with more authority over their subordinates; and 5, that a Commission be appointed to inquire into past measures of taxation and the capacity of the rate-payers generally to bear the burdens now proposed.

ZEMINDARI SUBDIVISION BILL.

The Hon'ble Mr. Carmichael moved the consideration of the Bill to amend Regulation I. of 1819, and in doing so spoke as follows:—

"My Lord Duke,—The proposals embodied in this Bill were made by the Board of Revenue in November 1871, when I had the honor of a seat there. After a tolerably long incubation in the Secretariat, an order of Government appeared, approving of legislation in the direction indicated. The date of that order is May 1874. In February last, when this Council next met, I brought in a Bill and got leave to refer it to a Select Committee. The report of the Committee was furnished in November, and I now beg to move that the Bill be taken into consideration and passed.

"When the Council had the Bill before it in February, I explained its object and provisions; but as a year has elapsed, and the *personnel* of the Council is considerably changed, it will be proper to go over the same ground once more.

"The object of the Bill, then, is the removal of the restrictions imposed by the present state of the law on the free sub-division of Zemindari property. A Zemindar, as everybody knows, was originally a mere contractor or farmer of land revenue. The old Hindu system had for its revenue agents functionaries called *Desamukhs*: each functionary administered the affairs of a small circle of villages, making the settlement of each village with or through its headmen, and received for compensation certain lands tax free. But the Mahomedan rulers were impatient of details, and a mode was invented of transacting the business of revenue more in the gross. Their agents collected the revenue of large tracts of country, which they paid in after deducting their percentage. Everything in India has a tendency to become hereditary; and as a matter of fact, in most districts which came under us, we found these hereditary agents under the designation of Zemindars.

"To these people the British Government, going much further still, gave documents recognizing their absolute ownership in their estates, the whole or any part of which they were at liberty to alien, provided such alienations were 'not repugnant to Hindu law or to the Regulations of Government.' It was further enacted that, on compliance with certain formalities, the Zemindar might free himself from the liability of paying the amount of the permanent land-tax assessed on the alienated portion, which was then saddled on the alienee. Thus, supposing a Zemindar to pay a lakh of Rupees, and to part with ten villages assessed at 25,000 Rupees in the aggregate, he would pay in future $\frac{3}{4}$ lakh only, the alienee paying the rest.

"I said that a Zemindar's alienations were not to be repugnant to the Regulations of Government. The first Regulation of the kind provided that no alienation of land 'charged with a less proportion of the permanent land-tax than the sum of 500 Pagodas per annum (Rupees 1,750) should be valid:' this was repealed in 1819, and the modification made consisted in allowing Zemindari Estates to be sub-divided into portions not less than one village, or dependent hamlet, in extent, though the sub-assessment of the permanent land-tax might be under 500 Pagodas. The Bill proposes to remove this restriction also.

"I will state two ways in which this restriction operates harshly:—1st, as respects the heirs of the Zemindar who makes the alienation; 2ndly, as respects the alienee or his representatives.

"As regards the 1st point: by the Hindu Law as it prevails in this Presidency, a man's sons become from their birth coparceners with him; and he cannot, without their consent, or unless under circumstances of necessity, alien more than his own interest in the estate; the alienation of anything beyond his own interest

would be invalid for the excess. And if the estate is impartible, as some ancient Zemindaris are, it is the right of the son to receive the estate *intact* at his father's death. Such a Zemindar, as remarked by Mr. Justice Holloway, 'has really an estate analogous to an estate tail as it originally stood upon the Statute *De Donis*. He is the owner, but can neither encumber nor alienate it beyond the period of his own life.' Suppose then that a Zemindar, of whatever class, under circumstances of necessity or in some other indefeasible way, sells, not a whole village, but a portion of one. Why then, until you pass into law the present Bill, the son, on succeeding, would be compelled to go on paying the land-tax due on the alienated portion, although he could never recover the lands; because the Collector won't recognize it as a separate Zemindari estate, which *must* consist of an entire village at least. Again, for the same reason, the alienee might at any moment be sold up at a revenue sale for arrears due on the Zemindari to which the lands still belong in the Collector's books.

"I think I have said enough to show you the necessity of a change; but I may quote the experience of the Board of Revenue in their capacity of Court of Wards. When the Board take up the charge of an estate and look into the rent-roll, they constantly find lands which are held rent free, owing to the benefaction of a former Zemindar, the grandfather, say, of their ward, and which it is impossible for them to resume, because of adverse possession, the twelve years' limitation allowed beginning to run from the grantor's death. Some of these alienations, which, for the reason given, cannot be impeached, are entire villages; some are portions only. The Board observe—

"'The hardship and inequality of the law may be illustrated thus:—A and B are minor Zemindars under the Court of Wards. A's grandfather gave five villages in Inam to a favorite dancing-girl. His son and successor held the Zemindari twelve years, when he died without bringing any suit for resumption. A, *his* son, is barred by his father's neglect from recovering the villages, but, under Regulation I. of 1819, the Court of Wards can secure him a very considerable measure of relief by saddling the dancing-girl or her heirs with the land-tax assessable on the property. A, therefore, has nothing to complain of; but with B it is different. The circumstances of both cases are identical, except that, instead of five villages to one dancing-girl, *his* grandfather made ten endowments to as many dancing-girls out of the lands of twenty villages. In the aggregate, these assignments are quite as valuable as the single one made by A's ancestor; but, because they none of them happen to consist of an entire village or dependent hamlet, B must be content, not only to lose the lands, but to pay the Government *peshcush* as originally fixed upon the whole Zemindari.'

"I shall probably be anticipating a question if I state why the restrictions, which it is now sought to remove, were introduced. I suppose it was because the collection of comparatively small sums from a Zemindari was thought difficult. On this head, the Board of Revenue write—

"'Experience has proved that the Government finds no hindrance whatever to the collection of the pettiest items of revenue in a permanently settled estate. The Zemindars are willing, on payment to them of a moderate commission on the amounts, to collect the quit-rents recently imposed on Inam lands situated within their taluqs; and a similar arrangement could readily be made for realizing the

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land-tax payable on the minuter separated portions of their estates, which the holders of more considerable portions would pay to the Deputy Tahsildars direct.'

"With these remarks, I move that the Bill be now taken into consideration and that it be passed by the Council."

His Grace THE PRESIDENT put the Bill, section by section, before the Council for their consideration, in the course of which the Hon'ble H. S. CUNNINGHAM suggested the introduction of the two following provisions, which the Council adopted as giving fuller effect to the principle of the Bill:—

In Section 2, Clause 3, providing for registering and separately assessing an alienated portion of an estate, the addition at the sixth line of the words "or being taken is disallowed by the Collector" after the words "and if objection is not taken by any person interested in the estate."

After Section 5, providing for persons aggrieved by a registration to sue in a Civil Court, the introduction of the following section:—

"Any person aggrieved by the Collector's refusal to register may sue in a Civil Court for a decree declaring that such separate registration ought to be made."

The Hon'ble Mr. CARMICHAEL then moved that the Bill, as thus amended, be now passed.

The Motion was put and agreed to.

MADRAS RECORD OFFICE

THE MADRAS MUNICIPAL BILL.

The Hon'ble Mr. CARMICHAEL moved for leave to introduce a "Bill to provide for the Management of the Municipal Affairs of the City of Madras, and to make better Provision for the Conservancy and Improvement of the City, and for the levying of Rates and other Income therein," and spoke as follows:—

"MY LORD DUKE,—At the last meeting I obtained leave to introduce a Bill to amend the Madras Municipal Acts. I now introduce the Bill, and propose to refer it to a Select Committee 'with power to call for papers and persons and to take evidence.' As this is a consolidating and amending Bill, your Grace would probably rule that it is open to any Member to discuss every principle it contains. For my part, I will merely mention such new provisions as have been introduced and are of public concern, as evidenced by recent expressions of public feeling. The lighting and water rates are only partially new, and have not been complained of; but the proposed town duties are altogether new. The Government has incurred some obloquy by its being stated that it is about to lay on new taxes which might be avoided by a closer working of the present Act, and petitions have been received demanding an inquiry. Considerable inquiry, however, has already been made: reports have been received from a Reorganization Committee appointed by the Municipal Commissioners from among themselves, and from a mixed Com-

mittee appointed by the Government to revise the Acts; and the President of the Municipal Commission has also recently reported on the existing deficiency in the municipal income; and though much is to be lamented, little remains to be known. However, by the rider I have added to my proposal, the Select Committee will have the opportunity of sifting the matter further in any way they think proper. But certainly, whatever maladministration there may have been, the best working of the Municipality cannot secure sufficient money for *progressive* wants and for the drainage scheme of the town. It has been seriously proposed that the drainage scheme should be handed over to the Government, and that the Government should provide for it from the Imperial exchequer. Calcutta, however, has provided eighty-six lakhs for its drainage. The Chamber of Commerce say that may be true, but Simla has been drained and rendered a safe residence at the expense of the Government, and that Madras should be treated like Simla. I should be glad to think so, but I confess I do not. It is also urged by a section of the community that Hospitals and Schools should form Imperial charges; but there is no reason why the town of Madras should be differently treated from any other.

"It is stated in one petition that the proposed town duties will bear severely on the poor by taxing the 'staff of life' at a rate which is calculated to amount to about twelve annas a head per annum. Let us turn to the Schedule and see what is proposed. It is proposed to levy one anna on every bag of grain containing 164 lbs. A native eats two meals a day; his diet is a quarter of a measure at each meal, or half a measure of rice per day. Fifty measures are equal to 164 lbs.; so that, at this rate, a man will take 100 days to contribute this one anna; or in the 365 days he will just pay three-and-a-half annas—say four annas, or six pence, a year, instead of twelve annas, or 1*s.* 6*d.* The petitioners further talk of this being *additional* taxation, but they forget the relief that is proposed by the Bill. First, there is a reduction of house-tax. There are about 31,234 houses in Madras liable to be taxed; we strike off 8,216 houses representing about 10,000 Rupees of tax. We also strike off 24,000 Rupees by allowing a deduction of 10 per cent. in rental value for repairs. Secondly, there is the reduction in the profession-tax. We have now a demand of Rupees 1,13,246 on 9,175 individuals. The reduction proposed is very large. We propose to strike off 7,671 individuals representing Rupees 40,596. There will thus remain 1,484 persons who will pay Rupees 72,650, or about 50 Rupees each, in the higher classes. A man with a wife and children will perhaps pay, under the octroi, nearly as much as he now does for house-tax; but it will be much less vexatious, while it will be a great relief to the Commissioners, who will get rid of the trouble of collecting different petty items. While rejoicing that relief takes this form, I may here say that the general statements in the petitions about overcrowding are greatly exaggerated. There are about 51,000 houses within the Municipality, and according to the last Census there are about

7·6 inmates per house; the percentage in thatched houses—the dwellings of the poorer classes—being only 4·3. The Town of Madras, you are aware, is situated in the centre of the Chingleput District, the rate in which is about 6·6 per house; and in the neighbouring district of South Arcot the rate is 7·7 per house. Further, I am told by the President of the Municipality that applications are constantly received to build *new* houses. The present house-tax cannot, therefore, be termed oppressive and denounced as impeding sanitation.

"In another petition (from the Chamber of Commerce) it is urged that the octroi is sure to degenerate into mere transit duties, and can only be enforced thoroughly at an expense disproportionate to the returns; and they seem to think that the system is confined to Bombay, and only answers there because Bombay is an island. It exists in Oude and the N. W. Provinces, and there, too, in conjunction with rates on houses and lands, on professions and trades, and on vehicles and draft carriage cattle. The Municipal law of the Punjab, the Central Provinces, and of Burma also permits of the octroi. As a fact, the following sums were raised at the latest dates to which information was readily available:—Rupees 13,44,400 in the N. W. Provinces; and the report states that the 'principal and popular method of taxation is by an octroi impost, and so long as this is confined to actual local consumption, and does not become a transit duty, there is no taxation more justifiable or less unpleasantly felt. It is also the most profitable.' Rupees 3,14,215 in Oude, where it is the chief tax. 'It is in operation,' it is stated, 'in all the Municipalities but one. Three-fourths of the tax revenue are given by octroi, a form of taxation which is not suitable to every Municipality that has adopted it, but of which there can be no question that it is of all others the most acceptable to the people.' In the Punjab, Rupees 14,68,379 were raised; and it is said that 'five-sixths of the municipal income was derived from octroi duties.' Coming nearer home, I will take Bangalore, where we find, from the Administration Report of 1872-73, that the octroi is the most productive of all taxes, yielding 42 per cent. of the total municipal income.

"The Chamber of Commerce then state that it is easy to levy an octroi in Bombay because it is surrounded with water, but that here in Madras we must build a wall all round, or, as they say, it will need a circumvallation as complete as that of Paris. At the risk of getting a gold medal from the Geographical Society for the discovery, I will show you by the map that Madras itself is an island. If you look at this map, you will observe that it is surrounded almost entirely by the sea, by the Adyar, by sundry tanks, and a canal. The tanks, no doubt, are sometimes dry, and the river is not always a deep and rapid stream; still these features *do* present obstacles to illicit traffic. You don't now see bandies sneaking through the tank-beds to avoid the tolls; and so long as your taxation is not too heavy, people will not attempt smuggling. I hold a paper here showing the inci-

dence of actual taxation. I find that in Madras the incidence is Rupee 1-0-2; in Calcutta, Rupees 5-0-10; in Bombay, Rupees 4-10-2; and in Bangalore, Rupee 1-0-0. It is impossible to go on as we are doing at present with an empty cash chest and numerous important undertakings to carry out. I hope therefore that, as the Government are quite open to conviction as to the best mode of supplying the present deficiency of funds, the Council will allow the Bill to go to a Select Committee, where we shall perhaps be able to hammer out a Bill which will fulfil all reasonable expectation. I propose that the Select Committee consist of

The Hon'ble Mr. Ellis,	The Hon'ble V. Ramiengar,
The Hon'ble Mr. Macfadyen,	The Hon'ble the Advocate-General,

And myself."

The Motion was seconded by the Hon'ble Mr. Hudleston.

The Hon'ble Mr. Macfadyen spoke as follows:—

"My Lord Duke,—I am glad to infer from the speech of the hon'ble mover that it is not a foregone conclusion on the part of Government to pass the Bill, the whole Bill, and nothing but the Bill. At the same time I think it desirable not to give an entirely silent vote, but to give some reasons for the faith that is in me that neither as to the extent nor the nature of the taxation proposed has Government been well advised. This Bill professes to be founded on the labors of the Revision Committee appointed in 1873, of which I was a member. But in its features of taxation it is entirely different from what that Committee recommended and gave reasons for recommending. The Bill is also a direct reversal of the deliberate opinion of Government as pronounced in G.O., No. 777, of 4th June 1873, where it is declared 'the incidence of the already existing taxation is very high indeed.' What has happened in the mean time to incline Government to believe that Madras can stand this proposed new and heavy taxation I do not know, nor have I heard any satisfactory explanation. Madras is not richer or more wealthy than when the above G.O. was penned; but some extravagant Daniel seems to have come to judgment, and the present Bill is the result. What I have to say will naturally have reference to the proposed constitution of the Municipality, and then to the objects it is proposed the Municipality should undertake and the kind of taxes it is intended to raise.

"Although I have joined in the recommendation that the number of Commissioners should be increased and that half of them should be elected, still I am not quite sure that in the future, any more than in the past, we are going to get the kind of machinery best adapted to the carrying on of municipal work here. It may sound retrograde to say so; but I have a lingering belief that a despotic triumvirate, consisting of an Engineer, a Sanitary authority, and a President for office and supervision, would be better for practical purposes than the unwieldy body we

are about to create. I can only hope that the Standing Committee it is proposed to call into being will in time give us the kind of men we want at the head of the Municipality. Before that Committee ought to come the questions the solving of which will be an education in Municipal duties; and it is to that Committee I look to make the Commissioners a valuable guardian of the rate-payers' interests. Any one with practical experience of Committees knows that their efficiency is in an inverse ratio to their numbers, and the most valuable assistance I look for from the forty Commissioners is that they will take pains to elect a Standing Committee of their very best men. The election by rate-payers of half the Commissioners is an experiment which can do no harm and may do some good. The presence of elected Commissioners may, by-and-by, raise the Municipality from its present humble position of being merely a helpless buffer between the Government and the public—the Government ordering the taxation, and the Commissioners having the odium of imposing the taxes.

"One of the most important parts of the constitution of the Municipality is, of course, its office establishment, to which the President has to trust for the efficient performance of executive duties, &c. In the report of the Municipal Committee, which had the overhauling of this establishment, will be found strong confirmation of the general opinion that the Municipal Office, as at present constituted, does not do the work it ought to do. I believe that one great reason of this is the practical irresponsibility of the superior officers of the Municipality. Presidents may come and Presidents may go, but these gentlemen under him holding gazetted appointments remain on for ever. Without intending any reflection on any individual, I am sure it is a mistake that the President should not have in his own hands the absolute power of suspension and dismissal over any servant of the Municipality. To have to ask Government for permission to deal with any subordinate, is a weakening of the President's authority that must be felt all through the office; and few Presidents would care to run the risk of being compelled to keep on a man whom he had recommended for dismissal. The consequence is that the gazetted officers look not so much to the President as to the Government, and I know that no private establishment could be satisfactorily conducted where the head was not able to effect any change that seemed good to him. I am therefore in favor of giving the President, with the sanction of the Standing Committee, full power over all the employés of the Municipality; and I hope this will be conceded by the Government.

"To my mind the most vital question connected with the Municipality is the burden that it may be fairly called on to bear. Government have given their opinion about this in a most decided manner, but I find it difficult to agree with them. Among a majority of the members of the Revision Committee, there was a strong feeling that great care ought to be exercised before adding to the local

burdens of a poor and straggling city like Madras. It has frequently been remarked to me by natives of intelligence that the policy of the Government of India seemed to be to screw as much taxation as possible out of the people for so-called imperial purposes—including, I presume, the proposed sanitation of Simla—and then to refuse to contribute any thing like a fair sum for local purposes. When the decentralization scheme came into existence, it was hailed by most as a step in the right direction. But I do not think that it was then realized that the provincial grants were to be fixed quantities, and that for increasing wants a non-elastic revenue was provided. It is now obvious, in my opinion, that the Provincial Government made the bad, and the Supreme Government the good, bargain in this matter; and the Bill before us is an instance of what local funds are now asked to do, many of the objects being such as in pre-decentralization days would have been fulfilled at imperial cost. The Revision Committee were unanimous in recommending that the Municipality should not be saddled with any expenses in connection with education, hospitals, and the operation of the Contagious Diseases Act. The Government, in language that may be described as slightly minatory, declare that they 'absolutely decline to accept the Committee's elimination of these several purposes from the Act, and direct their re-insertion in the Draft Bill.' I must confess that, when I found a conclusion worded in this manner, I expected that some strong premises would have been put forward to show the folly of the Committee as contrasted with the wisdom of Government. But a careful perusal of the order to which I am referring has not discovered to me any arguments on the subject at all, unless paragraph 14 of the order may be called reasoning. But all I find there is that Government 'maintain' that provision for elementary education is a recognized political duty; that the object of the attainment of the Contagious Diseases Act they similarly recognize as a public duty; and that hospitals may be regarded as a duty resting with the community. In my humble judgment these statements are merely expressions of opinion on the part of Government, and are no reply to the unanimous recommendation of the Revision Committee that the Municipality should be relieved of the charges referred to. It is no doubt hardihood on my part standing up for the Committee's opinion, or against the 'must absolutely decline' form of argument used by Government; and in this Council I well know which views will prevail. But, all the same, I feel bound to reiterate my strong belief that a grievous wrong will be done to the rate-payers if they are saddled with the burdens Government insist on putting on them.

"I observe that Government seem to lay some stress on precedent, and that what is done elsewhere is quoted as a reason for doing the same thing here. I, therefore, recommend to their consideration the following facts. In Madras, with a present income of 5½ lakhs, it is proposed to spend on education Rs. 33,000. In Bombay, with 30 lakhs income, Rs. 10,000 is the total education grant; while in

Calcutta, whose income is 34 lakhs, not a farthing goes to education. For hospitals, &c., Madras is to be asked to spend Rs. 50,000 per annum, while Bombay and Calcutta spend Rs. 17,000 each. No argument to my mind could be stronger than that the other large Indian Municipalities do not recognize the above objects as a duty to be performed by them; and, considering the financial position of the Madras Municipality, it is too much to ask it to spend on doubtful purposes about 14 per cent. of its present income. As to the Contagious Diseases Act, there is no doubt that its working is mainly for the benefit of the soldiers stationed here and the seamen visiting the port. It is obviously an Act therefore that ought to be worked at imperial cost, and it would be most unjust to saddle the Municipality with any portion of the same.

"The largest new work as affecting taxation is, of course, the Drainage Scheme, which Government declares to be an absolute want of the city. To supply the want, Mr. Burrows, taking, I presume, Mr. Clarke's estimates, says that Rupees 1,40,000 per annum will be required. Capitalizing this at 6 per cent., we have a proposed expenditure of, say, 23 lakhs for drainage. It has been pointed out—and justly so, I think—that the pressure for a costly scheme of this sort is from above. It is urged by the Secretary of State, at the instance of the Army Sanitary Commission, and the Government press it on the ground of the high death-rate alleged to exist here. I am not going to deny that the sanitary state of Madras is imperfect, and that its smells are most obnoxious at times. As to the high death-rate, I am not so very sure, because all this depends on the correct numbering of the people; and notwithstanding the precautions with which the last census was surrounded, I am not convinced that we have only 400,000 people in our widely spread area. It is well known that the native mind is suspicious when it sees an attempt made by Government to ascertain accurately the number of inhabitants; the object is naturally assumed to be fresh taxation, and the temptation is therefore very strong to return smaller numbers than actually exist. However this may be, I think the ease with which cholera was stamped out during last year is strong evidence that the sanitary condition of the place is not so bad as is represented. Had cholera come to a place prepared for it, so to speak, by dirt and bad conservancy, I do not think it would have fled so quickly as it did. I am not attempting to make out that nothing further can or ought to be done in the sanitation of Madras, but simply that its condition is not so bad as to justify our spending 22 or 23 lakhs on a system of drainage which may or may not be a success. We know what we are, and we know that the efforts to improve the health of Madras have not altogether failed. I believe that a continuance and development of the Municipality's humble efforts to improve the conservancy of Madras, will give us as favorable sanitary conditions as can be expected in a town so widely scattered and so flat as is Madras. On the other hand, it is just possible that after we are

committed to the drainage scheme, it may be found that it will not answer, as I believe the drainage problem to be solved here is admitted to be most difficult and complicated. It would be presumptuous on my part to attempt any criticism of Mr. Clarke's plan, but it is to be remembered that in Calcutta there are some doubts as to the benefits a drainage system has there conferred. In fact, in last year's report of the Municipality, Dr. Tonnerre, the Health Officer, denies altogether that the Drainage Works have improved the health of the town. He claims more credit for the conservancy and the Water Works. I imagine that even the Government here will admit that drainage works must admittedly be an experiment, and for the experiment, successful or not, the Municipality is asked to pay 23 lakhs. These 23 lakhs, too, are only the first estimate. We, in Madras, are familiar with the history of the still incomplete Water Works—how their inception was accompanied with low estimates of cost and large promises of returns; and now the fact is that even after largely exceeding the outside estimate first talked of, 3 or 4 lakhs are still wanted to complete them, while the returns have been *nil*. It is instructive, too, to read the story of the Calcutta drainage works. The first estimate was 30 lakhs, including water works, and the second 51 lakhs. The third was 60 lakhs, 28 lakhs being for water and 38 for drainage. The drainage has already cost over 60 lakhs, and requires 25 lakhs to complete it; while the water will have cost 80 lakhs when finished, so that an estimate of 30 lakhs has gone into an actual of 165 lakhs. Comment is superfluous. I know that it will be said we will profit by the experience of Calcutta. But no city has the same conditions, and I have no doubt at all that here, too, we will find that 23 lakhs are not enough, and most excellent reasons will be given, as in Calcutta, why the estimate has been exceeded. The Municipal Commissioners of Calcutta express their opinion that, had the cost been foreseen, it is not likely the work would have been undertaken. With their experience before us, we ought, I think, to hesitate before putting our hands to a plough that may lead us to a far field. It must not be forgotten that, while the drainage works are desired to be made a local burden, their construction will be under Government supervision. Surely this is a reason why the Municipality, if not altogether relieved of the cost, should be told by Government that a complete and successful system of drainage will be provided for a fixed sum, and that any excess will not be asked for from Municipal funds. This is a point I would press very strongly, did I not still hope that the entire drainage scheme will be regarded as an imperial project. The arguments in favor of this are to my mind irresistible. The drainage scheme, to start with, is not called for by the rate-payers. It is a costly experiment, which, at any rate until it succeeds, should be at the risk of those who wish it tried. The present objects of the Municipality are as heavy as the rate-payers can afford to pay for. In 1857 Municipal taxes were 1,56,000 Rs.; in 1866 they had risen to 4,34,000 Rs.; they are now over 5 lakhs; and we are told that 8 lakhs at

least will be required in future. The burden is increasing too quickly and in too great a ratio; and if all the proposed taxes are sanctioned and imposed, they must either be largely evaded, or they will impoverish the rate-payers and drive out of the town all who are not absolutely compelled to live in it. It is all very well to wish to educate, to heal, and to keep healthy the inhabitants; but all these benevolent intentions will avail nothing if you make the necessaries of life of the poor, and house-rent for the comparatively well-to-do, so dear that the struggle for existence wears them out sooner than even the noxious smells would do. I do hope that, even in this Council, I will not be found alone in recording my strong opinion that if Drainage Works are undertaken they should be so undertaken on behalf of Government. In other Presidencies I see the Government spending public money on objects that are far more purely local than the proposed drainage of Madras. It is quite time that an effort was made to show us that, for our contributions to the imperial revenue, we get something more than the right to tax ourselves anew if we want anything done.

"I now come to deal with the proposed taxation, which I consider too great. The Government, in their Order on this Bill, state that 3 lakhs additional taxation is required, that is, they desire the Municipality to have an annual income of about 8 lakhs. To raise this sum it is proposed to give power to levy the following taxes:—10 per cent. on house property; a water-rate of, say, 3 to 4 per cent.; a lighting-rate of 1 per cent. at present and 2 per cent. by-and-by; a profession-tax, tolls, a wheel-tax, and town duties;—surely a somewhat formidable list when we reflect that all this is in addition to our contributions to the Imperial Revenues. I know it is said that the Bill only gives enabling powers to the Municipality, and that only taxes absolutely necessary will be imposed. But the 'bludgeon section' of the Act must not be lost sight of, as it gives Government absolute power to ignore the decision of the Municipality and to order all the taxes to be levied if it should think fit. The town duties are expected to produce 3 lakhs, and the other taxes have given, without allowing for any increase, an average of 2,80,000 Rupees. So that the Bill enables taxation to be imposed estimated to yield 11,24,000 Rs., although Government profess to think 8 lakhs will be sufficient. I confess I do not wonder that the proposed taxation, to be imposed at the discretion of Government, should excite alarm among rate-payers. Practically, we are asked to more than double the present burdens of the town, and this, although it is stated that the inhabitants are 400,000 against the 600,000 or 700,000 whom Government so long ago thought were heavily burdened when they were made to pay five lakhs. The hon'ble mover has repeated the statement which I saw some time ago, and which was evidently inspired, that the percentage per head of the taxation here is very light as compared with Bombay and Calcutta. But the fallacy in such a comparison lies in the fact that here our

rateable property is 34 lakhs only, as against 112 lakhs in Calcutta and 119 lakhs in Bombay. The incidence of taxation in Madras is therefore felt more personally than in either of the other two capitals. I do not think it is too much to ask that no power be taken to raise more taxes than are absolutely necessary, and that Madras be not saddled at once with interest on the cost of a scheme like the Drainage Work, whose execution must be spread over a series of years.

"With reference to the taxes that the Municipality ought to have the power of raising, I see no reason to depart from the recommendations of the majority of the Revision Committee. These are, briefly, to retain the taxes now in force, to collect them properly, and to spend them economically. If, on reconsideration, Government see their way to follow the unanimous recommendation of the Revision Committee, and relieve the Municipality of education and hospitals, &c., the annual expenditure, omitting water works, will be four lakhs and seventy-six thousand, and receipts five lakhs and thirty-five thousand. The water is to cost, according to Mr. Burrows, about one lakh per annum, so that further only Rupees forty thousand will have to be raised. This amount one would not despair of getting out of present taxes, aided by economy in expenditure; so that, after all, we come back to the fact that the Municipality is declared to be insolvent, because Government wish to saddle it with objects that in the opinion of many are not strictly municipal. Briefly, all the proposed new taxation is because Government wish to insist on the Municipality providing funds for education, hospitals, and drainage. Regarding these I have already spoken, and it now remains to consider the best means of raising this money should Government insist on the Municipality assuming all the responsibilities named in the Bill.

"This brings me to the vital question of the octroi. I presume that, with the minority of the Revision Committee, Government would admit that it is only the pressure of financial necessity that induces them to propose a tax, the abandonment of which in other countries is usually regarded as progress in the knowledge of economical principles. In fact, the only argument in favor of the octroi is that money must be had somehow, and that this seems an easy way of getting hold of a large income. I have, however, shown that if only 8 lakhs are wanted, the other taxation proposed by Government will give this, and the octroi is therefore a superfluity so far as present needs are concerned. But I presume it is intended that the maximum rates on property provided in the Bill should not be at once imposed, and that the octroi is in future to be the Municipality's great stand-by. As the Municipal Commissioners will be principally owners and occupiers of property, it is no reflection on them to urge that they will strain to the uttermost the money-giving power of the octroi, and will touch property as little as they possibly can. I presume it is the well-to-do classes Government have in view when they declare no tax is likely to be 'less unpopular' than the octroi.

It is a tax that will be directly felt most by the poorer classes, though its indirect effect on the rich will be more than is perhaps imagined. Of course, the dealer who has to lay out money in payment of the octroi will add to the selling prices of his articles more than the actual amount of tax he pays. The first result of an octroi will thus be a permanent increase in the cost of food in Madras—an increase which it is difficult to fix by anticipation, but which will doubtless be sufficiently heavy to lead to some re-adjustment of wages among the poorer classes. It is in this way the pinch will ultimately be felt by the richer classes, as the cooly of the period has no margin wherewith to pay taxes, and anything Government takes out of him he must in the long run take out of his employer. Further, as the Municipality have been unable to collect their own tolls, and have had to let them out by contract, it is a fair inference that the same course must necessarily be followed with the octroi on articles coming by road into Madras. The contractor, of course, has to make his profit, and this will be in addition to the legitimate tax, to say nothing of the power of extortion that must be trusted to the contractor's collectors. Tolls are now pretty well understood among the people, and every one knows that it is only on a vehicle of some sort that the tax is levied. But the octroi is an inquisitorial investigation into the contents of carts, and, to be effective, must also take cognizance of the contents of bundles and parcels coming within Municipal limits. I need scarcely say what a wide door for extortion is here open; and I am surprised that we should be asked to place in the hands of low-paid natives the power an octroi would give the collectors. It is needless to say that a good deal of the blackmail that would be levied would never reach the octroi renters' pockets, and that the oppression of the people would be not so much for the benefit of the Municipality as for that of the subordinate collecting agents. It is obvious, too, I think, that smuggling must be encouraged under any system of octroi, and as to the demoralizing effect of this I need say nothing. The circumstances of Madras are such that to prevent smuggling a most expensive cordon would be absolutely necessary. This, of course, would run away with the productive power of the tax. One other important point in connection with an octroi is the hampering effect it will have on trade. Confidence is a plant of slow growth in commercial bosoms, and it is far easier to drive away trade from a place than to coax it back. Some years ago the Government of India, in their wisdom, thought saltpetre a good article on which to put an export duty. They did so and killed the trade. They took the duty off, but the trade has never revived. The Railway Commission which sat here some time ago was much impressed by the existence of the trifling things that kept or drove traffic away from the Railway, and every commercial man knows that bother and loss of time are as important elements in calculations as mere money profit or loss. It will not, I assume, be denied that the mere fact of collecting the octroi in the

first instance, whether the articles are ultimately exported or not, is an interference with trade that ought not to exist, except for strong reasons. I am told that the octroi in Bombay and elsewhere is a great success, but the people interested in its trade there do not admit this. So recently as the 26th of last October the Bombay Chamber of Commerce wrote, remonstrating on the subject of the duties and pointing out how hurtful to trade they are. The Bombay Chamber of Commerce say—

" 'The Committee can only express their regret that the present injurious system of municipal taxation by the Bombay Municipality and the Municipalities of the Mofussil of this Presidency should ever have been permitted, and that the sound principles and the excellent rules laid down by the Government of India in the Resolution of 1868 were not from the first adopted. No imports, it is true, are more popular than Transit and Town Duties among the owners of property and the more influential classes in towns, for by means of these duties they escape from the taxation which should properly fall upon themselves. But when such a system exists, the real injury that is being inflicted on general interests is overlooked, and the community suffers by the decline of its commerce, which seeks other channels in which it meets with fewer impediments. No Town or Transit Duties are imposed in Calcutta, where the town conservancy moreover compares favorably with that of Bombay, nor is there any duty levied on imported tobacco other than the Imperial customs duty. They believe that all Transit and Town Duties are alike injurious to the general trade and to the towns immediately affected; and that, as all experience has shown, such duties are incapable of effectual remedy by any contrivance of bonded warehouses or drawbacks. They would here particularly crave the attention of His Excellency in Council to the Resolution of the Government of India already mentioned, which has accurately defined the principles, and almost exhausted the whole subject, of Municipal taxation. In paragraph 4 of that Resolution, the Government of India proclaimed that it had reason to believe that the sound principles therein laid down—the truth of which had been established by the prolonged experience of those countries of Europe in which Octroi Duties form commonly a source of Municipal revenue—had been frequently lost sight of, and that to meet the burden of an annually increasing expenditure upon police, education, or sanitary improvements, a widespread system of taxation had been introduced, injurious to interests on which the burden in a great measure fell, and standing in the way of the proper development of the commerce of the country. 'It is to little purpose,' said His Excellency the Governor-General in Council, 'that the Imperial Government reduces or abolishes customs duties in the interest of trade if Municipalities are permitted to lay duties on articles of commerce passing through their limits.'

" In these sentiments I for one cordially concur, and so, I am sure, will all who have had any practical experience of the trade here. No system of refunds can prevent the octroi from becoming transit duties, and this is surely a result much to be deprecated. And in every point of view, therefore, the octroi seems to me the last kind of tax that we ought to attempt to impose in Madras. I do not think it necessary in the first place, and I believe that, if imposed, its effect will be to oppress and damage the people and to injuriously affect the trade of Madras. If Government insist on the Municipality raising more money than the present taxes will yield, then a perfectly unobjectionable source of revenue is available from the arrack consumed in Madras. I know that the revenue from it is supposed to be sacred to imperial purposes alone. But if we cannot get a slice

out of the present duty, let an additional duty be levied for Municipal purposes. The incidence of such a tax would be scarcely felt, and the price of drink would be only infinitesimally increased to the individual consumer. Besides, drink is a luxury. It is always considered a fair thing to tax. Let us follow England's example, which is said to have drunk herself out of the costs of the Alabama Arbitration—let us invite the thirsty inhabitants of Madras to drink us out of the Municipal insolvency.

"I have only to refer to one other matter, and that is the reception of the Bill by the public. It may safely be asserted that the better the provisions of the Bill are understood, the less they are liked by the people affected. The natives, who are by habit slow in expressing opinions hostile to Government, have greatly, to their credit, held an influential meeting of their community, and adopted a petition whose prayer strikes me as reasonable and just. The Chamber of Commerce here have pronounced strongly against the proposed octroi, and, in doing so, have purposely limited their remarks to a comparison between the conditions of Madras and Bombay, both being sea-port towns. The hon'ble mover will be glad therefore to learn that his inference is unfounded that the Chamber were not aware of the existence of the octroi in some inland towns. The public journals are singularly unanimous in their criticism, more or less unkindly, of the principle and details of this Bill; and the opinion seems general that we should have the report of an independent Commission, before power to impose fresh taxes is given, as to the collection and administration of the present taxes. I do not believe that the proposed reference to a Select Committee of this Council will meet the wish of the rate-payers. The hands of Government would be far more strengthened by an independent Commission reporting that everything possible is done with the present taxes. It will, I venture to think, be a pity to force this Bill, as it stands, on an unwilling populace. The people are very patient under the novel inflictions of our administration, but this very fact ought to make us abstain from trying too many and frequent experiments. Let us give them the independent inquiry they want, and let the present Bill await the result."

The Hon'ble Mr. Ellis replied—He said that he wished to make a few remarks on the Municipal Bill now before the Council, because he had long been connected with the town of Madras, and had taken a part in framing its Municipal Acts, which measures, however, he was forced to say, with regret, had not hitherto been attended with much success.

For many years it had been a reproach to the Madras Municipality that it was in a state of insolvency. It is true that Madras, in this respect, was not much worse than its neighbours; for not long ago Bombay was in a similar condition of

Municipal insolvency, and we find there, as in Madras, the pressing need of important public works, a pure water supply, and a complete scheme of drainage; but Bombay had faced the difficulty by the levy of town duties, as was now proposed here in the Bill before the Council.

Reverting to former legislation, he might mention that the Act of 1867 was not a Government measure. The Government did eventually consent to the Bill becoming law, but it was only after much discussion that they had agreed to add two taxes—sea-tolls and a tax on spirits. Unfortunately, the Government of India had disallowed the sea-tolls, and we found ourselves at the end of nine years, since the Bill became law, in the same urgent need of money as before. His hon'ble friend Mr. Macfadyen was premature in supposing that the present legislative scheme was considered by Government a foregone conclusion. As far as he (the speaker) could judge, the part that the Government had taken in the scheme was, first, simply to affirm that the Municipality was insolvent; secondly, that being insolvent, there should be some means devised of finding it sufficient assets to go on respectably; and, thirdly, that there were certain great works which it was impossible for the Government to see neglected.

He was quite certain that he was not misrepresenting matters when he affirmed that it was in no antagonistic spirit, either towards the Municipality or the general public, that the Government had hesitated to grant a special Commission to inquire into the state of Municipal affairs. If the Government had not acceded to this suggestion of the Chamber of Commerce, it was not because they wished to prevent inquiry, but because they felt that they had already had the very best inquiry possible, and that all the necessary information had been obtained in the simplest and most complete manner. The Reorganization Committee appointed by the Municipal Commissioners from among themselves had admirably discharged its duty, and had thoroughly examined and exposed the defects of the existing Municipal administration, its constitution, and its affairs. It was impossible to read their Report without feeling convinced that it contained a most complete, he might almost say a hostile, criticism of the past and present Municipal administration. The Government felt, therefore, that there would be no real advantage in appointing any further committee of inquiry. No committee, however selected, could hope to approach the subject with any better acquaintance with all the mysteries of the Municipal administration. Nor could we expect more complete revelations than those contained in the able Report which was now in the hands of the members of this Council. For his own part, he hoped that every suggestion made by the Reorganization Committee would, on further consideration, be adopted, and that no exaggerated or sentimental regard for vested interests would be allowed to perpetuate the reprehensible neglect which had been brought to notice, and which had led to the discreditable inefficiency of the Municipal administration.

The Hon'ble Mr. Macfadyen, whose remarks he welcomed, had described the evils of the unwieldy expansion which the Bill proposed in the constitution of the Municipality. He (the speaker) quite agreed with his hon'ble friend; and if we could return to the time when all Municipal authority was vested in a despotic triumvirate, he thought such a change would be of the greatest advantage. That was a difficult question which might well be left to the Select Committee if this Bill passed its present stage; and if the Select Committee deemed it wise to revert to a triumvirate, the suggestion would, he felt sure, receive the most respectful consideration of this Council. No amount of administrative activity, however great, without the provision of increased sources of income, could do more than provide for existing Municipal liabilities, and he could not pass by, as lightly as the Hon'ble Mr. Macfadyen had done, the crying necessity that existed for providing Madras with great works, the safeguards against epidemics and abnormal death-rates. He (the speaker) had for many years watched the sanitary condition of this large city; and, from having held the office of Sanitary Commissioner, there were few persons, he believed, who were better acquainted than himself with the back-slums of the town and with the miserable condition of the people who lived there—those poorer classes, of whom it was the privilege of his hon'ble friend to be the advocate.

His hon'ble friend had rather sneered at official returns of the death-rates of this city; but for his own part he believed them to be correct, and it was impossible to examine them carefully without marking how fatal were the effects of the continued neglect of the most ordinary sanitary precautions, especially as regards cholera, which had again returned among us, and with which it had been found more than ever difficult to deal. It was not to be denied that Madras was acquiring, and justly, the reputation of being one of the most unhealthy cities of India. When we sneer at sanitary returns, we should remember that, by losing sight of the causes and results they indicate, and by failing to apply the proper remedies, we are sentencing to death two or three thousand human beings every year. We must look these evils seriously in the face. We have done something to alleviate them; a good water supply has already been partially secured. We must now justify its cost by completing the project, and we must add to it a thorough system of drainage, and make these two essential works productive to the people of health and comfort in their homes. To do this we must have a considerably larger Municipal income. It is not sufficient for the Government simply to affirm that the Municipality is in a chronic state of insolvency. The Government is bound to go further than this, and insist that action be at once taken to raise the money for the prosecution of these two great works. Provided these main objects are secured, the Government will, he doubted not, be prepared to accept any well-considered suggestions that the Select Committee may offer for the improvement of the Municipal constitution and administration.

With these remarks the Hon'ble Mr. ELLIS begged that the Bill be advanced a stage, and be referred to a Select Committee.

The Hon'ble G. N. GAJAPATHI RAU said :—

"It is well known that sanitary improvements are necessary in Madras, and any attempt to keep the town in a clean and pure and healthy condition, as well as to provide for the more efficient lighting of the streets, must meet with the cordial sympathy of every citizen. Under this impression, whilst fully concurring in the object of the Bill and admitting the necessity that is said to exist for revising the Municipal Act with reference to future contingencies, I cannot but admit that, considering the expressed inability of the native community to bear additional taxation, I feel doubtful as to the advisability, especially at the present time, of laying any fresh burden upon the people.

"From what I have been able to gather, and as far as I can judge, there is a strong feeling in the minds of the public generally against the present Bill, though its object, especially in regard to the provisions for effective drainage, is approved by all. This and other important wants, it is thought, might be met by retrenchment, by a more effective and economical management of the municipal apparatus, supplemented by a grant from the imperial exchequer.

"The season appears to be singularly unfortunate for carrying out the measure proposed by the Bill; and it is scarcely fair, in this view, to draw a parallel between Madras and Bombay. As regards our own town, it is admitted that Madras contributes largely to the imperial exchequer, and taxation was thought to have reached its utmost limit in the days of Lord Napier. Since the last few years trade has been stagnant, and prices have run high, in fact extravagantly so, compared with the Mofussil, from whence we import our provisions; they are indeed becoming higher every day; and, from causes which no doubt occur to your Grace, the present year threatens to be one of scarcity, so that a fresh impost at this juncture would, I conceive, be most distasteful to the people. But I am sure that Government would be very reluctant to attain the object in view, of improving the town at the cost of an additional impost, if it could be avoided; and if any feasible means could be devised whereby the necessary outlay could be met without pressing upon the poorer classes, I am sure it would meet with careful consideration at their hands.

"I am of opinion that all those objects which do not legitimately come under the head of Municipal requirements should be excluded from the Bill in its proposed revision, and that they should be sought to be provided for from Imperial funds. I will not at present discuss the practicability or impracticability of any particular tax; but, if the measure is to be carried, I hope its provisions will be fully and fairly considered, so as to prove least burdensome to the people.

"I think that referring the entire Bill to an independent Commission, as proposed by the Hon'ble Mr. Macfadyen, will have its advantages; but, if the majority of the Council prefer to send it to a Select Committee, I agree to the proposal, as I am sure the Bill will have full consideration at their hands, as such a Committee will sift the matter thoroughly and, before coming to a conclusion, will take the opinion of all those who are able to give their assistance in the matter."

The Hon'ble Mir Humayun Jah Bahadur remarked that his hon'ble friend, Mr. Macfadyen, had gone so fully into the question of the internal management of the Municipality, and into the wants and wishes of the public, that he would not detain the meeting by going over the same ground again. He quite agreed with his hon'ble friend as to his statement of what the public opinion was. The Municipality, as it now worked, was fully depicted in the Government Order, and the matter did not need any special remark from him; but this he would say, that, unless the new organization gave more power to the Commissioners, who represent the rate-payers, and was productive of better working, it would never gain the confidence of the public. With reference to the imposition of an octroi, he found, on looking at the Census Returns of a few years ago, that fifteen-sixteenths of the population were in such a condition that their income was not so elastic as to bear an additional taxation of three lakhs a-year. As to the working of the octroi, he had not long ago been travelling in Bombay and other places, and he never found any duty so detested there by the rate-payer as the octroi: it was even more disliked than the income-tax. Referring to the Schedule of town duties, and calulating its bearing on the staff of life, he was of opinion that the octroi system, if introduced here, would have the effect of enhancing the cost of a native's food at least by 14 per cent., and that it was not advisable to enhance the cost of living at this rate, especially when a poor man, say in menial employment, who has to maintain a family of three persons, actually spends already one-twentieth of his earnings in salt alone. At the same time it did not appear to him that by appointing a separate Commission, rather than referring the Bill to a Select Committee, any great object would be gained. He therefore voted for the Bill being referred to a Select Committee, reserving to himself the right of discussing the details of the Bill when it came to be taken into consideration again after passing the hands of the Select Committee.

The Hon'ble Mr. Hudleston observed that the Council were much indebted to the Hon'ble Mr. Macfadyen for his searching and temperate criticism of the Bill; but he would remind the Council that the motion before them was that the Draft Bill should be referred to a Select Committee with instructions to obtain full information on all details and with power to alter and amend the draft; so that, in fact, an opportunity was now afforded for a thorough and complete revision of the Municipal law of the Presidency town, which would allow of all objections being maturely

considered and a measure framed to meet all requirements in the best manner possible. He trusted this opportunity would not be allowed to pass unused by rejecting the motion. There was not a single provision of the Bill that would not be open to the revision of the Select Committee; and whatever objection was entertained to the frame of the Bill, or to the Schedules attached to it, there was nothing to prevent any one from stating such objection to the Select Committee, and submitting for their consideration proposals for amendments.

As to the detailed objections which his hon'ble friend had urged in respect to the constitution of the Municipality and the large increase in the number of Commissioners, the suggestions embodied in the Bill were not the suggestions of the Government, but of an open Committee appointed by the Government, and of which Committee his hon'ble friend had himself been a member. He (the speaker) had his own opinion on the constitution of the Municipality. He sympathized to some extent with the objections raised, and believed that with a much smaller number of Commissioners, and with more extended power in their hands, a better system of administration could be effected.

As to the establishment and increase of expenditure in larger salaries, it must be remembered that the provision in the Bill simply fixes a maximum, and it by no means follows that the maximum salaries are to be paid; but the Select Committee will no doubt carefully consider this point, and adopt such a scale as they may deem best suited to satisfy the requirements of the case.

Then as to the want of control and the Commissioners being powerless to deal with misconduct on the part of their subordinates, both the present law and the draft law provide that certain superior officers of the Municipality shall be appointed and be removable by the Government; but it cannot for one moment be supposed that the Government ever intended to take the initiative in removing Municipal Officers, except in most exceptional cases. Before Government can act, they must be satisfied of the necessity for interference; and, practically, the Commissioners have the matter in their own hands. So far as he was aware, in no case had the Government ever yet been asked to interfere in any individual instance; but the Commissioners might rest assured that the Government are anxious to uphold their authority over their servants.

As to the objections stated against the proposed purposes of the Bill, he (the speaker) would merely point out that, with the exception of the general drainage scheme, there were no new purposes. Whatever other purposes were provided for in the present Draft Bill would be found in the existing laws. But this and all similar questions could well be raised before the Select Committee. As to the statement that Simla is being drained at the cost of the general revenues, as the objectors proposed that Madras should be, he had indeed seen a statement in the newspapers that an estimate of 10 lakhs had been framed for the drainage of Simla; but he was not

MADRAS RECORD OFFICE

aware that there was any authority for stating that its execution had been sanctioned, or was contemplated, from Imperial Funds. As to the objection that some of the purposes, old or new, are not cast on Municipal taxation in Calcutta or Bombay, he would remind the Council that there are very heavy charges borne by those Municipalities, notably that for Town Police, from which Madras is absolutely free; while the systematic drainage of Calcutta, and he believed also of Bombay, was effected at the cost of Municipal funds. Improvement was quite possible in the collection of the Municipal taxes; but, after careful examination of the facts, he could not believe that the present sources could supply adequate means for satisfying all the needs of the Presidency Town in Municipal matters. It must not however be forgotton that, after all, the powers of taxation provided by the Bill are permissive; and that if any one or more of the several sources can be made adequately productive, there is nothing whatever in the Bill to require the imposition of all the taxes provided. And the town duties, though it might be competent to the Commissioners to impose them, might possibly prove superfluous, and in that case need never be imposed; while it rests entirely with the Commissioners to select such method of taxation as may be likely to prove least inconvenient to the tax-payers. As to the "bludgeon section" denounced by his hon'ble friend, he (the speaker) would merely remark that it was no new section: it existed in the present law, and it had been retained by the Revision Committee of which his hon'ble friend was a member. The Government had in no way influenced its insertion in the present Bill. As regards the suggestion that, if an increased income is actually needed, it could best be obtained by additional taxation on trade in spirits, his hon'ble friend would see, by referring to Section 103, that this power is already expressly given by the Bill, and that the Commissioners are thereby empowered, with the sanction of Government, to raise the rates on liquor licenses when they see fit.

The manner in which the Native public had acted in regard to the proposed legislation was, in his (the speaker's) opinion, entitled to all praise. They had availed themselves of their constitutional privileges in a proper spirit, and they might be sure that the representations they had made in the petitions now before the Council would receive the amplest consideration of the Select Committee. But the suggestion that an independent Commission should inquire into the working of the Municipality prior to any attempt at amending or altering the Municipal law could not, in his opinion, be adopted with any hope of practical results. The Reorganization Sub-Committee of the Municipal Commission and the Revision Committee who prepared the Bill had already furnished in their reports a mass of detailed information of the highest value, and he greatly doubted whether any independent Commission could have obtained as much. This information would all be available for the Select Committee, and if more were needed he believed they would have no difficulty in obtaining it.

He trusted that by the adoption of the motion before the Council, and by the labors of the Select Committee, aided by the public, a thoroughly satisfactory measure of Municipal reform would be secured for the Presidency town.

The Hon'ble MR. COLEMAN observed that it would be neither tyrannical nor despotic to refer the Bill to a Select Committee, because every objection that could be urged against the Bill could be dealt with by the Select Committee, who would thus be in a position to produce an improved and unexceptionable measure to be passed by the Council. Having been long connected with the Municipality, and having recently acted as its President, he was perfectly familiar with its wants and its failings. Originally there were three Commissioners who had ample powers, not only for purposes of administration, but to consider objections and remedy defects. Subsequently the Act of 1867 was brought in, which enlarged the number of the Commissioners, but for all practical purposes rendered them a mere sham, as all power was passed into the hands of the President. In effect, all that the Commissioners had to do was simply to say "yes" to whatever measures were put before them. If they declined assent, they were pitched into by the public and by the press. No one knew better than he that the drainage was most defective, and that it was not only necessary to provide the city with a good system of drainage, but to find the means wherewith to provide it. There was one thing, however, that he would impress upon the Council, and that was that the means employed in collecting the taxes was most oppressive to the people. He was convinced that there was both oppression and extortion; but, as the Commissioners had no executive powers, there was no chance of controlling this state of things. The present Bill proposed to give larger powers of interference. He would add that, unless the octroi was properly collected and by a proper machinery, there would be great oppression. As he felt that the hon'ble members nominated to the Select Committee would give all proper consideration to these matters, he had no objection to the Bill being referred to a Select Committee.

The Motion was then put to the meeting and carried, that the Bill be referred to a Select Committee consisting of the hon'ble members nominated by the Hon'ble Mr. Carmichael, with power to call for papers and persons and to take evidence.

The Council then adjourned *sine die*.

(By Order)

W. M. SCHARLIEB,

Asst. Secretary to Government,
Legislative Department.

MADRAS,
The 3rd February 1876.

MADRAS: Printed by E. KEYS, at the Government Press, Fort St. George.

Abstract of the Proceedings of the Council of the Governor of Fort St. George assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 and 25 Victoria, Cap. 67.

The Council met at the Council Chamber in Fort St. George on Wednesday, the 22nd day of November 1876.

PRESENT:

His Grace the GOVERNOR OF MADRAS, G.C.S.I.—*presiding.*
His Excellency the COMMANDER-IN-CHIEF, G.C.B., G.C.S.I.
The Hon'ble Sir WILLIAM ROBINSON, K.C.S.I.
The Hon'ble R. S. ELLIS, C.B.
The Hon'ble W. HUDLESTON.
The Hon'ble H. S. CUNNINGHAM.
The Hon'ble D. F. CARMICHAEL.
The Hon'ble V. RAMIENGAR, C.S.I.
The Hon'ble P. MACFADYEN.
The Hon'ble G. N. GAJAPATHI RAO.
The Hon'ble MIR HUMAYUN JAH BAHADUR.
The Hon'ble J. G. COLEMAN.

PETITION.

The ASSISTANT SECRETARY reported, for the consideration of the Council, the following petition :—

From the Reverend H. Fitzpatrick and twenty-three other Subscribers to the Madras Widows' and Orphans' Fund, resident in Hyderabad—

Stating, with reference to the Bill before the Council to incorporate the Madras Widows' and Orphans' Fund, that the Fund has been in existence for forty years; that it has been able to support the widows and orphans of deceased subscribers from its subscriptions and donations alone; that it has an accumulated capital of one million and three hundred thousand Rupees vested in Government paper; and that petitioners are apprehensive that the granting of a Charter of Incorporation may lead to speculation detrimental to the Fund; and

Praying that the Bill for incorporating the Fund may not be passed; and that the Governor in Council may be pleased to take the Fund under his patronage, and obtain for it protection and privileges enjoyed by the "Bengal Uncovenanted

Service Family Pension Fund," which is under the immediate patronage of the Governor-General, and the capital of which is held by Government and its surplus revenues paid into the Government Treasury.

The petition was ordered to be printed and circulated to the Members.

MADRAS ACT I OF 1876.

The President announced the assent of the Governor-General to Madras Act I of 1876, being an Act to make better provision for the separate assessment of alienated portions of Permanently Settled Estates.

BOAT ACT AMENDMENT BILL.

The Hon'ble W. Hudleston said that he had given notice of his intention to introduce a Bill to amend Section 10 of Act IV of 1842 (an Act providing for the management of boats and catamarans in the Madras roads), so as to enable the Government to declare from time to time at what part or parts of the beach goods might be landed, according to the circumstances of the weather, the surf, or the beach; but that he had that morning received a letter from the Master Attendant suggesting that the opportunity should be taken at the same time of making further provision for the regulation of boats, which suggestion should be first taken into consideration by the Executive Council. He therefore begged leave to postpone the introduction of the Bill.

Leave was granted accordingly.

MADRAS MUNICIPAL BILL.

In presenting the Report of the Select Committee on the Madras Municipal Bill with the Minutes of dissent of two of the Members, the Hon'ble D. F. Carmichael remarked, that in introducing the Bill he had fully gone into the circumstances which called for the measure, and that the Report of the Select Committee was itself a tolerably exhaustive statement of the changes proposed in the law. He had therefore but a few remarks to make. The manifestation of public feeling on the introduction of the Bill was not repeated now in respect of the proposed Town Duties. This was probably owing to the Committee having introduced the provision that Town Duties were to be imposed in dire necessity only,—in other words, when other sources of income were exhausted. In dealing with the Bill, the Select Committee had proceeded on the lines of the Revision Committee, though it must be said that the Bill had been so overlaid and amplified and (he hoped) improved, that the Revision Committee might perhaps hardly recognize their own production. His present remarks would be devoted to the financial part of the question. At present the Budget receipts of the Municipality

for 1876-77 were calculated at Rupees 5,34,000. Under the item "Rates on Houses" budgeted for Rupees 2,62,000, the Select Committee proposed to exempt 8,216 houses paying 8,000 Rupees and to grant the owners of the remaining houses assessed to the rate a reduction of 10 per cent to cover cost of repairs. These two deductions from the present amount being made, the budget receipts would stand at Rupees 5,02,800. The Committee had thought, however, that it was no longer expedient to exempt the houses in the Fort from taxation; these buildings were probably assessable at 22,000 Rupees, and this would bring up the Budget receipts again to Rupees 5,24,800. Further, the Committee had relieved the Municipality from the charges (9,000 Rupees) for working the Indian Contagious Diseases Act, which they regarded as properly debitable to Government in the Military Department, the Act having been brought into force, they conceived, for the benefit of the soldiers of the garrison.

His Excellency the COMMANDER-IN-CHIEF here inquired whether the Act would not be worked if there were no soldiers in Madras.

The Hon'ble Mr. CARMICHAEL replied that he thought not.

He then proceeded to refer to the lighting-rate (2 per cent) and water-rate (4 per cent on all property assessed to the house-tax) provided by the Bill, and, in answer to the Commander-in-Chief, explained that the water-tax would be universal, and that the water would be brought by the Municipality along the sides of the roads, whence private individuals might conduct it at their own cost into their premises. The present annual charges on the Municipality in respect of the Red Hills water system were 85,000 Rupees interest on Loan, and 6,000 Rupees payment to Government for the water. The budgeted charge for the works was this year 1,38,000 Rupees, which would have to be enormously increased before the system was completed and pure filtered water available to the inhabitants all over the city's area of 27 square miles. Many more lakhs would have to be borrowed, and a great portion of the present charges would probably have to be met from general Municipal revenues.

Setting aside these special rates, it was obvious to everybody that, for the ordinary purposes of the Municipality, a great deal more money was required. The estimate made by the Government, the authority to be armed with the powers of the "bludgeon clause," was, that to bring the Municipality up to the proper mark of efficiency, there must be an additional income of two lakhs. A lakh and a half at least was required for improved conservancy, new roads and better old ones. The existing condition of things in many parts of the city could not be worse than it was at present. Then there was Mr. Clarke's Drainage Scheme estimated to cost 1½ lakh a year for interest on the necessary loan. This would make 3½ lakhs in all. For this the Committee offered the *Octroi*. The original proposal made by the Government was to put an impost on every article of local consumption, following the

example of the North-Western Provinces, where 89 per cent of the Municipal revenues was made up in this way. But the Committee proposed to follow pretty nearly the Bombay Act, placing a small tax on food-grains, wine, beer, certain metals, sugar, ghee, timber, and tobacco. Of course, it would be open to the Municipality, according to circumstances, to tax one or all these kinds of articles. Bombay, with a population of $6\frac{1}{2}$ lacs, obtains 6 lakhs a year from its Octroi. Madras, with a population of 4 lacs, might secure over 3 lakhs in the same way, including the tax on spirits sold by the Collector of Madras within the town and the proposed toddy-tax. It was to be remembered again that this Octroi was only to be resorted to as a dire necessity when all other sources failed, and on the supposition that Mr. Clarke's expensive drainage scheme was finally approved. The Committee believed that by this provision they had appeased all objectors; but the Hon'ble Mr. Cunningham had given notice of a hostile motion on the subject. He (Mr. CARMICHAEL) did not for a moment suppose that the Honorable Member was one of those who thought that the Imperial revenues should pay for the drainage scheme; nor that he considered that Madras was not in need of drainage at all. How then would he meet the necessary outlay? He had indeed given notice that he wished the provision for the introduction of a scavenger-cess to be restored; but this would go a very small way in providing funds, while the Native Member of the Select Committee and every other respectable Native spoke of the proposal to cleanse the latrines of their houses by the Municipal sweepers with extreme disgust. Deferring to Native feeling in such a matter, the Committee had deliberately given up the scavenger-tax. Well, his Honorable friend perhaps desired to enhance the Municipal income by raising the house-tax; but in one way or another, the taxation of Madras was at as high rates as that of Calcutta or Bombay. The house-tax stood thus: for Calcutta 10 per cent, Bombay 7, Madras $7\frac{1}{2}$; lighting-rate, 2 per cent, in each; water-rate, Calcutta 6 per cent, Bombay whatever it cost to supply the house-owner, Madras 4; drainage, Calcutta $2\frac{1}{2}$, Bombay a scavenger-tax only, Madras *nil*. But if Madras had no drainage-rate on house property, it had a heavy professional-tax: Bombay had no such tax; and Calcutta a very mild one, the highest tax being 50 Rupees, and large classes—including all public servants, Civil and Military—entirely escaping it. There remained the Calcutta and Bombay Police rates at 3 per cent, as a set-off against which, it must be remembered that Madras paid for schools and hospitals at such cost as Government might from time to time determine. At Calcutta and Bombay, the sum to be disbursed for hospitals was left entirely to the Municipality; and at Calcutta a contribution to schools was not contemplated by the Act at all.

Mr. CARMICHAEL hoped, in conclusion, that there would be no necessity for recommitting the Bill, and that no unavoidable delay would arise in passing it and bringing it into operation. The matter of a change in the Municipal law had now

been under consideration for more than three years; Committee after Committee had sat and reported on the measure; and he therefore hoped that the Council would proceed at once to take the Bill under their consideration.

The Hon'ble Mr. CARMICHAEL moved, and the Hon'ble Mr. COLEMAN seconded the motion, that the Bill be now considered.

On the proposition being put to the Meeting, the Hon'ble Mr. MACFADYEN said that he would detain the Council for only a few minutes. In his Minute of dissent he had explained, at as great length as was necessary, the reasons which had influenced him in opposing certain portions of the Bill. Every one of the Members had no doubt come to the Meeting with his mind quite made up; and he did not hope, therefore, to influence any votes. He would, however, venture to draw attention to one or two points. As he had all along objected, so he still continued to object, to hospitals and education being considered any portion of Municipal duty. If Madras had fulfilled all its sanitary conditions, and had fully provided for its lighting, its roads, and its drainage, then any surplus that remained might be devoted to education and hospitals. But Madras was a poor town; and for a poor town like Madras, the promotion of education and support of hospitals were not Municipal purposes. The great object should be to keep the people alive and the town in fair order. For years to come all the Municipal taxes would be needed for this. The sum put down for educational purposes hereafter was about 80,000 Rupees. His own opinion was that such a large sum should not be diverted from the proper Municipal objects of the city. Both Calcutta and Bombay had exercised a wise discretion. Calcutta did not pay a single farthing to education, and Bombay only gave what it really could afford after fully providing for the wants of the city. Madras should not try to be more virtuous than her richer sisters. Moreover, in refusing to contribute to these objects, it could be said, without shame, "it is her poverty, not her will, consents."

With reference to the "bludgeon sections," Mr. MACFADYEN quite agreed with the Select Committee that they armed the Government with all the powers it craved; but he regarded those sections as containing a standing menace which disfigured the Bill. The attitude which the Government assumed was like that of the old highwayman; it said to the Municipality, "Your money, or your life." Let us frankly try the Municipal constitution such as we propose; or say at once that we have no faith in it, and make it a purely Governmental institution. Why profess to give with one hand what you take away with the other? He (Mr. MACFADYEN) knew these sections were said to be the last resort of a Government wearied out by municipal incompetence and lethargy. But they must be read in connection with the tax-raising sections of the Bill; and here the Council must remember that in the G.O. of the 15th November 1875, the Government estimated that if the Municipality raised 8 lakhs, they would raise sufficient to provide for as many objects as

they could look after for a long time to come. He could not fully follow the Hon'ble Mr. Carmichael's financial statement. To his own mind it appeared that the moneys capable of being raised, with the present improved Municipal collection from the taxes already in existence, would come up to about 6 lakhs. As a member of the Select Committee, he was not a party to the notion that the water-tax of 4 per cent was only intended for new works. He was of opinion that it should provide also for the interest on past loans. He believed that he was correct in assuming that the Bill gave power to collect, in lighting and water-rates, over 2 lakhs hereafter, in addition to existing taxation; so that these 2 lakhs, *plus* the 6 lakhs from present taxation, would together make the 8 lakhs which the Hon'ble Mr. Carmichael admitted would be sufficient for the wants of Madras. But over and above this, there was the *Octroi*, which, by one stroke of the pen, would raise the Municipal revenues to 11 lakhs. If so much was not wanted, why retain a provision to raise so retrogade a tax as the Octroi? On a previous occasion he had pointed out the economic objections to the tax; to-day he merely declined to vote for the tax, as it seemed a superfluity of naughtiness. The retention of the Octroi sections and the "bludgeon sections" made him (Mr. MACFADYEN) fear that the Government still entertained a secret love for the *Octroi*, and that their real sentiments were anticipated by the poet (slightly altered) when he sang—

"The merchant to secure his treasure,
Conveys it by a borrowed name;
'Other taxes' serve to grace our measure,
But 'Octroi' is our real flame."

The Hon'ble Mr. CUNNINGHAM spoke as follows:—

"As I was another of the dissenting members of the Committee, it may be convenient for me at this stage to state to your Grace and the Council my objections to the Bill. With regard to what fell from the Hon'ble Mover, I sincerely hope that we shall not be called upon to consider the Bill in detail in Council, but that we shall decide to recommit it to the Select Committee. I am quite sure that we shall save time by recommitting the Bill. I can appeal to the Hon'ble Member opposite (Sir William Robinson), whose experience will I am sure support me in the statement that nothing leads to more difficulty and more mistakes than discussing and deciding the details of an elaborate Bill in Council.

"I now proceed to state the grounds of my objection to the Bill.

"In the first place, there is an important change proposed to be made in the mode of constituting the Municipal Commission. Your Grace is aware that, by Act V of 1871, there exists a power in the Government to confer the right of electing Commissioners in any division in which it appears desirable to do so. The Government is so perfectly ready to exercise this power that it has framed rules for the regulation of the election. The necessary machinery for an election is accordingly

in existence and ready; and nothing more is wanted but a stroke of the pen to bring it into operation. But no human being has ever asked for the privilege of election. There has been no expression of public opinion in its favor. The Hon'ble Member who introduced the Bill wants it, I believe, as a sort of boon to the public to compensate for some of the unpopular provisions of the Bill—in fact, a sort of gilding to a pill which the patient is reluctant to swallow. For my part, I like the gilding as little as the pill; nor do I believe that the concession will be in the least agreeable to the public. You are making a concession where no one wishes for it. If people wanted it, they would have asked for it fast enough: you would have had petitions on the subject; but there is no such thing before you; indeed, no indication whatever of opinion on the point. I shall be supported to-day by two of my honorable friends who may be taken as representing two different classes of the community and indications of what public opinion on the subject is."

The Hon'ble Mr. Ellis here observed that the Hon'ble Member was out of order in mentioning what support he could count upon.

The Hon'ble Mr. Cunningham apologized if it was out of order to refer to the support which honorable members intended to give to a resolution:—and proceeded:

"On the whole, there is no evidence that people are not perfectly satisfied with the existing system of appointment by the Government. But my honorable friend on my right (Mr. Carmichael) wants election on the principle of alleviation, and my honorable friend on my left (Mr. Macfadyen) approves it on the ground that it may do good and, at any rate, no harm. I am unable to share his confidence. I think it may do great harm. When you grant a franchise, you do so on the idea that you will get in a better class of representatives. It may be that the Government are under an impression that there is a feeling of distrust among the people that the Municipal administration is being carried on by mere nominees. There is no ground for such an impression. There are all sorts of complaints against the Municipality, but there is no hint that the Government are nominating their own people to carry out what they want. In fact, at the present moment, the Commissioners are steadily resisting the scheme of drainage which the Government have by their Resolution formally adopted, and which their Consulting Engineer has pronounced to be without a rival—the one best adapted for the wants of the city. Now, as there is admittedly this complete independence on the part of the Commissioners and this complete absence of any wish to dictate on the part of the Government, are we likely to get a better class of men than those which the Government nominates, by resorting to the system of election and giving votes to a large class of tax-payers? I think not. At present Commissioners are nominated by Government who possess the fullest means of judging of the fitness of the persons whom they appoint. I fear that it will be found that the men elected under the

new system will not be as useful, as sensible, as judicious, as enlightened as those whom Government, actuated solely by a desire to nominate the best men, has been in the habit of selecting for the office.

"Again, a franchise may reasonably be conceded when the matter to be determined is comparatively unimportant and the main object is that the wishes of the electors should be consulted. There are many things, indifferent in their nature and of importance only in the degree in which they suit the tastes of those concerned. As to these, Government may reasonably say—as, for example, it does say to the Hindus about their laws and religion—'Do as you please, settle the thing in any way you fancy; we shall not interfere with you.' But this is not the case here. The Government has a deliberate policy as to what is necessary in the way of sanitation: they take the responsibility for saying that certain things are necessary for the well-being of the city; and, with the aid of what the honorable member has called the 'bludgeon sections,' they are even prepared to carry out the measures they think necessary against the wishes of the Commissioners. As to these matters, Government says to the people, 'Whatever your views may be, we are the persons who know what is best for you, and we take the responsibility of deciding what ought to be done, irrespective of your views about it'. This being the Government stand-point, it is inconsistent to invite any tax-payer who happens to pay 25 Rupees to take an important part in the government of the Municipality and, in that position, very probably, frustrate the very schemes which the Government have determined to carry out, and indulge the very prejudices which Government is determined to defy.

"Again, a franchise may reasonably be conceded when, from the character of the people concerned, they are likely to exercise the privilege with calmness and sagacity. Where education is high, where knowlege is general, where good sense is strongly developed, Government may properly say to the people, 'We shall trust you to govern your own affairs, your opinion is likely to be as sound as ours, we devolve upon you the responsibility of decision.' Is that the case in India? Is it so especially with regard to sanitation? We know that it is not so even in England. Does not the experience of England warn us that, as regards matters of conservancy, the indolence, the stinginess, the idleness of communities—and, as compared with India, highly educated communities—is such that they cannot be trusted to provide adequately for themselves and to apply the necessary remedies to the evils amidst which they live; and we constantly hear of Government, through the Board of Health, or the Acts as to the Pollution of Rivers or such like, intervening to compel Municipalities to the proper performance of their duties in this respect. Is it not the fact that schemes of improvement do not as a rule emanate from within, but are forced on the community either by the State or some

injunction from the Court of Chancery, which prohibits the longer continuance of some popular nuisance? If this is so in England, why are we to expect the people of Madras to do any better; on the contrary, we must expect them to do a great deal worse, considering their total ignorance of the laws of hygiene and their religious notions which are frequently in dead opposition to those laws. In Calcutta, only a few years ago, people thought it quite indispensable to throw corpses into the Hooghly; and when pure water was brought into the city, it was only after grave discussion and much hesitation that the Brahmins could convince themselves that it was not irreligious to drink it, instead of the filthy compound to which they were accustomed. I mention these as the sort of prejudices which we shall have to meet—prejudices which do not indeed affect the minds of the educated, but which do most seriously affect the large classes to whom it is now sought to concede the dangerous privilege of election.

"Lastly, there is a point which I approach with some hesitation, and as to which I wish to speak with the utmost respect. I oppose the change contemplated because it is calculated to develop the idea—a most unsound and dangerous idea in my opinion—that when the Government have created a Municipality a little *imperium in imperio*, they may wash their hands off the whole concern and say, 'We do not intend to interfere until the people themselves ask us to do so.' My honorable friend, the Chief Secretary, said at the last meeting, with respect to the dismissal of incompetent officers of the Municipality, that Government would never, as a rule, interfere until the Commissioners themselves first moved in the matter. I think this is a mistake—a wrong view of the position of Government. Government may reasonably enough invite the co-operation of individuals—it may invite private persons to come in and assist in the conduct of Municipal affairs, and may be glad of their advice and co-operation. But the ultimate responsibility, the duty of appointing the officers of the Municipality, of reprimanding them when they go wrong, of insisting on their doing their work efficiently, and of dismissing them when they prove incompetent or dishonest, must rest on your Grace and your Grace's colleagues. You cannot devolve this duty on other persons: to do so will be a great mistake; the change will be most unfortunate. For the last few years the Government, if I may venture to say so, has left the Municipality too much to itself; it has acquiesced in abuses and irregularities which it would not have tolerated in any department under its immediate control. The consequence has been a scandalous neglect of public duties and a scandalous waste of public money. The Government has refrained from interference, because it considered, I suppose, that the initiative did not rest with itself, but with the Commissioners. This seems to me a wrong position to take up, and I deprecate the proposed change, which will serve to carry out this mistaken principle still further, as bad and dangerous.

"I may add that the Press, so far as it is an indication of public opinion, appears to be unfavorable to the change. We are warned by the recent experience of the elective system in Calcutta. I now read from the *Madras Times* of the 4th November last:—

'Undismayed by the dismal experience of Calcutta, the city of Madras has determined on essaying the experiment of representative self-government, though directly opposed to all Indian tradition and to the ideas and habits of all Oriental nations. The Select Committee, however, have done wisely in requiring as an indispensable qualification that a Commissioner must be acquainted with the English language. In the capital of British India, although discussions are invariably conducted in English, it has not been held necessary that a Commissioner should have any knowledge of that tongue. As a natural consequence, neither Europeans nor the better class of Natives could bring themselves to canvass a semi-nude constituency surrounded by unsavory odours, and, as the inevitable result of their abstention, a number of Yahoos have been returned, only capable of displaying their own ignorance, and of retarding the progress of business. These men, of course, disapprove of all expenditure upon sanitary works, and desire no innovations upon the dirty ways of their forefathers. Those who do speak English usually indulge in very tall talk, and, if permitted, will extend over an hour what might have been intelligibly expressed in ten minutes. For this reason, many European members of the former Corporation would have preferred a Board, at which verbiage should have been less valued than sagacity and practical knowledge. "Administrative autonomy," however, is one of the fashionable follies of the day, and nothing would satisfy the ruling powers but the introduction of elective institutions, as preliminary to the self-government which is hereafter to crown the edifice, and mark the fulfilment of our self-denying mission.'

"This is certainly not a very encouraging view of the popularity of the measure. The Calcutta papers are loud in denouncing the principle of election as an utter failure. This is what the Calcutta Correspondent to the *Pioneer* says on the subject:—

'The final scenes of the farce of Municipal election have been enacted in the last week, and the voting of the few "Commissioners" wanted adds a few more to the already long list of nonentities who compose the Corporation. This precious body will be either useless or mischievous. It will be useless if it is absolutely subservient to the Chairman (as it is almost sure to be), and it will be mischievous if it attempts to take things into its own hands. Of the two the useless seems for luckless Calcutta to be the preferable alternative, and it has the advantage of suiting the disposition of Sir Stuart Hogg, who now leads a life of repose in comparison to the stormy existence of this time last year.'

"This is the opinion expressed in a paper which is certainly not considered too ready to criticise any Government measure.

"Here is another opinion, quoted from the *Englishman's Evening Journal* of September 16th, 1876:—

'The second Municipal elections are over, and with a result which goes far to confirm the view taken by the *Englishman* of the chance of Europeans being elected under the new constitution. Mr. James Wilson, the well-known Editor of your contemporary the *Indian Daily News*,

was put in for the Bara Bazaar ward by the same powerful party who, as that gentleman has informed the public in your columns, secured the return of twenty-six Commissioners at the first elections, and who had pledged themselves to return him, or any one he might name, for any ward in the town. In opposition to him stood a Native merchant who has taken no conspicuous part in public affairs. The result has been the defeat of the well-known European and the chosen of this powerful party. Having wisely determined not to put himself forward as a candidate, Mr. Wilson has avoided the humiliation of defeat, though he has not altogether escaped that of having to eat his own words. What, it may be asked, would have been the fate of any less popular European, standing without the support of a powerful party against a more popular Native than the chosen of Bara Bazaar? He would certainly have commanded a much less respectable position on the pole than Mr. Wilson, who, after all, has been defeated by only a small majority. At future elections, if I am not very much mistaken, supposing the present constitution to be retained, European candidates will have still less chance of election than they have had on the present occasion, for the Natives, having once tasted of the sweets of self-government, will be the less willing to share them with interlopers like ourselves. The Calcutta Correspondent of the *Pioneer*, I see, speaks of the *Englishman* as being wrathful with the Natives, for preferring their own countrymen to Europeans. This, I fancy, is far from being the case. Whether the Natives have acted altogether wisely, may, perhaps, be doubted, but there can be no question as to their having done what was quite natural for them to do. * * * But it is open to the greatest doubt whether representation on any such general basis is at all adapted to the condition of society in Calcutta. How, as a matter of fact, have the present elections been conducted? Is it not the case that three-fourths of the voting papers were signed by the voters in blank, and made over to patrons to dispose of as they pleased? in other words, did not three-fourths of the voters surrender their privilege into the hands of a few of their more advanced fellow-townsmen as a thing that they cared, or understood, nothing about? Every one who knows anything of Native society could have foreseen this, and it reduces the gift of self-government to the merest mockery.'

"This is public opinion as expressed in two very influential journals in Upper India; this I believe to be the opinion of most educated people about it; and yet we are asked to pass a scheme which nobody has asked for. It will do a great deal of harm—more harm than any good that it can do. Therefore I urge the Council to keep the present law, and not to force upon us a new one for which no one has asked, and which may be fraught with inconvenient consequences alike to the Government and the Municipality."

The Hon'ble Mr. HUDLESTON observed that he was not sure that he was in order in asking to be allowed to explain what his honorable friend had attributed to him about the position of Government with respect to the Municipal officers. He certainly did not contemplate, in what he had said at the last Meeting of the Council, that the Government were not in a position to interfere at all. What he did say was, that the Government were not in a position to take the initiative in ascertaining the facts of a case; that it was for the Commissioners in the first instance to ascertain the facts; and that, on being informed of the facts, the Government would then be in a position to interfere if they saw that there was a case calling for their interference.

The Hon'ble V. RAMIENGAR spoke as follows :—

"MY LORD DUKE,—I confess I am not convinced by the Hon'ble Mr. Cunningham's arguments against the introduction of the elective principle into our Municipal government. Because the first election held under the new Municipal Act in Calcutta has not been so successful as we could wish, therefore a similar attempt must fail in Madras. Such seems to be the Honorable Member's argument. He has also told us that no human being in Madras has ever asked for a franchise. I would answer that by asking, who ever asked for any Municipal rates and taxes and for a Municipal Corporation consisting of thirty-two Commissioners? Within the last hour we have heard the most opposite opinions expressed regarding the fitness of the citizens of Madras to be entrusted with any powers and privileges. One Honorable Member has told us that the Municipal Corporation as the representatives of the rate-payers should be perfectly independent of the Government, and that any interference with them on the part of the latter would be a mistake; while another has tried to prove that the Municipality has no business to have any powers of any kind entrusted to them. The question of introducing the popular element into the Municipal government of this city was fully discussed, both when the present Municipal Act was passed in 1867, and when the Supplementary Act of 1871 was passed by this Council. I see no reason, as at present informed, why elections should not succeed in Madras. The more enlightened of the rate-payers constantly make it a subject of grievance that all the Municipal Commissioners are Government nominees, and that there is no real representation of the people's wishes and interests in matters of Municipal administration. This is true to a great extent, notwithstanding that Government seek to select the best men available. I consider that it is a concession due to the tax-payers of Madras that they should have some voice in the choice of the men who represent them at the Municipal Board, at a time when the Legislature is continually adding to the burdens of the people, and when so much is expected from the Municipality. Personally, I confess I am not very sanguine that the elections will, at the outset at all events, prove a success; that duly qualified men will everywhere come forward to offer themselves as candidates; or that the best men will be invariably elected. It would be too much to expect all at once such complete success from a novel and at best a doubtful experiment. Representative institutions are not made, but must grow; and they are not the growth of a day. And the Indian soil, if we have regard to its past history and to the centuries of Oriental despotism to which the country has been accustomed, is perhaps not the most congenial to their growth. Still, so long as we consider the people entitled to have Municipal Corporations and Local Fund Boards, and entitled to be taxed for roads, education, hospitals, dispensaries, sanitation and other purposes, there is no valid reason why representative government in Municipal matters should not

also be attempted on a small scale in the Presidency capital, which is the centre of the wealth and intelligence of Southern India and the oldest of Her Majesty's possessions in this country. The attempt may not succeed to our wish at first; but failure in such a cause may itself be an advantage, as it will not be without its lesson. It would be no mean advantage if the introduction of the elective principle into our Municipal government had some little effect in reconciling the rate-payers to the additional burdens, which from time to time the Legislature is called upon to impose upon them in the name of progress and civilization."

The Hon'ble MIR HUMAYUN JAH BAHADUR wished to know why it was concluded that the system of electing Commissioners would be a failure. He did not see why the system should not succeed in Madras, when it had succeeded in other parts of India.

The Hon'ble Mr. MACFADYEN observed that the general feeling among the people was that the election clauses in the Bill would be conceded. The Municipal Act Revision Committee, of which he was a member, were unanimous in recording their opinion, and recommending to Government, that the privilege of election should be conceded to the people. The Hon'ble Mr. Cunningham was therefore not fair in saying that the system of election was not wanted, nor even dreamt of, by anyone. He was certain that if the clauses were struck out, it would give great dissatisfaction to the people.

The Hon'ble Mr. ELLIS remarked that it was usual, if a Bill was to be recommitted, to bring forward certain definite points on which the proposal to recommit it was based. He would therefore venture to ask his honorable friend to state some of the leading sections on which he proposed to recommit the Bill to the Select Committee.

The Hon'ble Mr. CUNNINGHAM pointed to the Chapters dealing with taxation as a whole, which, he considered, it would be more convenient to consider in detail in Committee than in Council.

The Hon'ble Mr. ELLIS remarked that he had a lively recollection of the difficulty of weaning honorable members from their ordinary pursuits to attend the sittings of the Committee. Unless some principle were involved, he objected to the Bill being recommitted, as there would be no prospect whatever of the Bill passing into law. If there were any objections to the Bill, his honorable friend, who was a member of the Select Committee, should have brought those objections to the notice of the Select Committee when it was sitting; and it was very inconvenient that, whenever any sudden idea occurred to an honorable member, he should bring it forward and ask for the postponement of a measure under the consideration of the Council. He had no security that his honorable friend, or some other honorable member, might not again ask to postpone the Bill. He would therefore propose that the Bill be proceeded with in the usual course; and then

if it was found that it could not be settled in Council, it could be recommitted; but at present, the stage at which recommittal becomes necessary had not been reached.

His Grace the President then put it to the meeting that the proposition before the Council was, that the Bill as amended by the Select Committee be taken into consideration. The proposition was carried by a majority.

The Council then proceeded to consider the Bill.

On the reading of *Section* 2, the Hon'ble V. Ramiengar moved that the saving clause of the repealing section as it stood in the original Bill, but which had been omitted in the Bill now under consideration, be restored. After some discussion, the motion was assented to.

Section 3, *Definition (g)*—" 'Magistrate' means a Magistrate of the City of Madras" was altered to " 'Magistrate' means a Magistrate appointed for the City of Madras under Act VIII of 1867 of the Governor of Fort St. George in Council, or any law for the time being in force relating to the Courts of Presidency Magistrates."

Section 5, *Clause* 2.—"Until such notification is made, the existing divisions shall continue in force" was altered to "Until such notification is made, the divisions existing at the passing of this Act shall continue to be in force."

Section 6.—The following alteration was made in this section: "The Municipal affairs of the City shall be administered by thirty-five persons, including the President and Vice-Presidents appointed under Sections 33 and 36, who shall be styled," &c.

On the reading of *Section* 7, the Hon'ble Mir Humayun Jah Bahadur objected to the standard of qualification for election as Commissioner being fixed at 100 Rupees payable in taxes, as even in Calcutta, which was a much richer city, it was fixed at only 50 Rupees.

His Grace the President observed that before details could be discussed, the Hon'ble Mr. Cunningham's proposed amendment in respect to Sections 7 to 22, the first of which had now been reached, should first be moved.

In proposing his amendment that Sections 7 to 22 of the Bill be so amended as to restore the provisions of the law now in force as to the appointment and election of Commissioners, the Hon'ble Mr. Cunningham remarked, that he had already said all that he wished to say on the motion; the effect of his proposal being to make the system of election optional with the Government—not compulsory—and practically to substitute Section 3 of Act V of 1871 for the sections indicated in the Bill.

The amendment, not being seconded, was lost.

On the motion of the Hon'ble V. Ramiengar, the Council agreed that, instead of a candidate for election being *assessed* for taxes, the principle of Section 11 of

the Calcutta Act should be adopted, viz., that he should have actually *paid* taxes up to the qualifying amount. Clause (*e*) of Section 7 was accordingly ordered to be altered, so as to accord with the principle of the Calcutta Act.

The Hon'ble MIR HUMAYUN JAH BAHADUR proposed, and the Hon'ble V. RAMIENGAR seconded the proposal, that the money qualification of a candidate for election be reduced from a payment of 100 Rupees to 50 Rupees in taxes.

The votes of the members being equal, and HIS GRACE THE PRESIDENT giving his casting vote in favor of the qualification as it stood in the Bill, the proposal was lost.

Section 8.—The Council directed that the words "thirty-two Commissioners" be altered to "thirty-five Commissioners," and that the words "in addition to the President and Vice-Presidents prescribed in Sections 33 and 36" be added.

On the reading of *Section* 9, the Hon'ble MIR HUMAYUN JAH BAHADUR proposed, and the Hon'ble G. N. GAJAPATHI RAO seconded the proposal, that the principle of Sections 8 and 9 of the Calcutta Act be introduced, in respect to the actual payment of taxes, and the privilege of voting in more divisions than one according to the payment of taxes in different divisions. After some discussion, the proposal was put to the Meeting and carried by a majority. HIS GRACE THE PRESIDENT directed that the draft of the section be altered accordingly, but that the final consideration of the alterations in Clauses (*c*) & (*d*), and the fresh clause after (*e*,) be reserved until the altered draft is printed and placed before the Council.

The Hon'ble Mr. CUNNINGHAM proposed that the word "*shall*" in the second line of Section 9 should be altered to "*may*," but HIS GRACE THE PRESIDENT ruled that after the sub-clauses were redrafted and brought in in printed form before the Council, the principal clause could then be considered. The whole of Section 9 therefore stood postponed.

Section 10, *Proviso*.—It was agreed that the three months fixed for the first election after the passing of the Act be altered to *four* months, so as to allow of a little more time for the first election and the getting out of the preparatory lists.

In *Section* 12, it was directed that the word "Government" should be altered to "Governor in Council."

It was proposed by the Hon'ble Mr. CUNNINGHAM, and seconded by the Hon'ble Mr. COLEMAN, that the expenses of the election should fall on the candidate and not on the Municipal Fund; but a majority voted against the proposition.

Section 13.—The following alterations were ordered in this section. Instead of "If less than twenty qualified voters tender votes at such election," read "If less than twenty votes are given." Instead of "the Governor in Council may nominate a Commissioner in the place of the Commissioner for whom the election was held," read "the Governor in Council may nominate a Commissioner for the division for which the election was held."

Section 14.—The following amended section as drafted by HIS GRACE THE PRESIDENT was ordered to be substituted for the section in the Bill :—

"There shall at all times be one elected Commissioner for each division.

"The Governor in Council shall by notification prescribe the manner in which the other elected Commissioners shall be distributed among the divisions.

"If the Governor in Council shall at any time by notification alter the number of the divisions, he shall at the same time prescribe the future distribution of such remaining Commissioners."

Section 15.—On the suggestion of HIS GRACE THE PRESIDENT, the following amendment was ordered to be made in this section :—

In lines 5 to 7, instead of "twenty-five rupees in the year in which an election takes place,"

read, "twenty-five rupees for and in the year preceding the one in which an election takes place."

Section 16.—The following amendments were ordered :—

In line 5 of the first clause, for the word "choose," substitute "notify to the President the division in which he chooses to serve".

In line 6 of the same clause, substitute "notice" for "choice".

In line 2 of the second clause, substitute "for" for "in".

In line 4 of the same clause, substitute "voters" for "taxpayers".

Section 19.—On the suggestion of the Hon'ble Mr. HUDLESTON, the words "to be nominated or elected or" in the second and third lines were ordered to be expunged.

On the suggestion of HIS GRACE THE PRESIDENT, the following amendments were also ordered :—

"List" to be altered to "lists".

The words "as soon as may be" in the fifth line to be altered to "within three months".

The words "and in each division" to be added to the section.

Section 20.—The following clause was ordered to be added :—

"Copies of such lists shall be supplied to the public at the Municipal Office at cost price."

Section 21.—The word "list" to be altered to "lists".

Section 22.—The following amendments were ordered :—

In the first and second lines, the words "to be nominated or elected or" to be expunged.

In third line, "list" to be altered to "lists".

In the ninth and tenth lines, the word "the Senior" before "Magistrate" and the words "of the City of Madras" after "Magistrate" to be expunged.

Section 26.—On the suggestion of HIS GRACE THE PRESIDENT, the following amendments were ordered :—

The words "or is convicted of any cognizable offence as defined in the Code of Criminal Procedure," at the end of the section, to be omitted ; and in lieu thereof the words "sentenced to imprisonment for any offence" to be substituted and brought in before "becomes bankrupt or insolvent," &c.

Section 27.—Similarly, the following amendments were ordered :—

The words "so sentenced or" to come in after "Any Commissioner" in the first line.

The words "or being so convicted" in line four to be expunged.

For the words "in the two latter cases" in the sixth line, substitute "in the last case".

For the words "restore him to his post" at the end of the section, substitute the words "restore him to his office at the next general meeting".

Section 28.—Instead of the words "liable to" in the sixth line, substitute "punished with" or such other terms as are used in the Penal Code.

Section 30.—The following alterations were ordered :—

Omit the second clause limiting the term of office of a Commissioner nominated or elected on a vacancy.

Substitute a clause directing the President to give immediate notice to the Governor in Council of a vacancy.

Section 31 having been read and passed,

The Council adjourned to Saturday, the 25th instant, at 3 o'clock P.M.

(By Order.)

W. M. SCHARLIEB,
Asst. Secretary to Government,
Legislative Department.

MADRAS,
The 22nd November 1876.

MADRAS RECORD OFFICE

MADRAS: PRINTED BY E. KEYS, AT THE GOVERNMENT PRESS, FORT ST. GEORGE.

Abstract of the Proceedings of the Council of the Governor of Fort St. George assembled for the purpose of making Laws and Regulations, under the provisions of the Act of Parliament 24 and 25 Victoria, Cap. 67.

The Council met at the Council Chamber in Fort St. George on Saturday, the 25th day of November 1876.

PRESENT:

His Grace the GOVERNOR OF MADRAS, G.C.S.I.—*presiding*.
His Excellency the COMMANDER-IN-CHIEF, G.C.B., G.C.S.I.
The Hon'ble Sir WILLIAM ROBINSON, K.C.S.I.
The Hon'ble R. S. ELLIS, C.B.
The Hon'ble W. HUDLESTON.
The Hon'ble H. S. CUNNINGHAM.
The Hon'ble D. F. CARMICHAEL.
The Hon'ble V. RAMIENGAR, C.S.I.
The Hon'ble P. MACFADYEN.
The Hon'ble G. N. GAJAPATHI RAO.
The Hon'ble MIR HUMAYUN JAH BAHADUR.
The Hon'ble J. G. COLEMAN.

PETITION.

The ASSISTANT SECRETARY reported, for the consideration of the Council, the following petition:—

From C. Etherajulu Naidu and eighty other Native inhabitants of the City of Madras—

Submitting that the money-qualification fixed in the Municipal Bill for election as Commissioner, viz., payment of 100 Rupees a-year in taxes, is too high, considering the present state of the Native community and the extent of knowledge of the English language among the experienced elder members thereof; that, instead of studying economy, too high a scale of salary is fixed for the President and Vice-Presidents, involving an expenditure of 54,000 Rupees a-year for these three officers alone, exclusive of a liberal office establishment, and that such enhanced expenditure can only lead to fresh taxes, such as the Town Duties, Water-tax, &c.; that petitioners are greatly disappointed to find that Town Duties

are brought under Municipal taxes, and that the cost of the Educational and Medical Services, which are Imperial purposes, is thrown on the Municipality; that, although the Bill reduces the house-tax to 7½ per cent, it levies taxes under other denominations which amount to 13½ per cent on landed property alone; that, while Schedule B, showing the scale of Profession-tax, exempts officials drawing salaries less than 200 Rupees a-month, it does not distinctly exclude poor tradesmen and petty merchants whose annual incomes fall below 500 Rupees; and that the provisions of Sections 60 to 62, empowering Government to carry out works even against the wishes of the Commissioners, are rather arbitrary and will convert the Commissioners into a mere machinery to carry out such experimental works as the drainage scheme, which is properly an Imperial work; and

Praying that the Bill be published in the vernaculars and widely circulated, and that sufficient time be allowed for appeals and for the real views of the people being made known to Government.

The petition was ordered to be printed and circulated to the members.

MADRAS MUNICIPAL BILL.

The Council then proceeded to the consideration of the Municipal Bill.

Section 32.—On the reading of this section, the Hon'ble Mr. MACFADYEN moved, and the Hon'ble MIR HUMAYUN JAH BAHADUR seconded the motion, that so much of clause 1, title (*b*,) *Public Health*, as referred to the construction, repair, or maintenance of hospitals and dispensaries, be omitted.

The Hon'ble V. RAMIENGAR opposed the amendment. He said that hospitals and dispensaries might or might not be proper objects of municipal expenditure, but they were purposes that had been included in the Act of 1871 after great discussion and deliberation, and in lieu of the contribution which the Municipality had theretofore been paying towards the maintenance of the Police. If the Hon'ble Mr. Macfadyen's argument that neither Calcutta nor Bombay recognized the duty of providing for Hospitals and Education was just and was a reason for excluding those objects from Municipal purposes, then the fact that both of those Towns paid for their Police must, and most probably would, also be held to be a good reason why Madras should be again saddled with the payment of 50 per cent of the charges of our Town Police as formerly; so that the position of our Municipality would not be in the least improved by the Honorable Member's motion being carried. The Municipality had never hitherto paid more than 40,000 or 50,000 Rupees for both Hospitals and Education, while it used to pay upwards of a lac of Rupees for the Police; and therefore, if the former objects were excluded and the latter reimposed, the Municipality would positively lose and not gain by the change. Further, it should be remembered that under the present

Bill, if it became law, the obligation of the Municipality in respect of education would no longer be what it was now under Act of 1871, but would be narrowed and limited to aiding the elementary instruction of the poor.

The Hon'ble Mr. Ellis wished to point out to his honorable friend that, if his amendment were carried, it would place Madras in an unenviable position, as other municipalities would then be providing for elementary education and for hospitals, whereas Madras would not be doing so. Nothing, surely, could be more useful than, when the working man was out of health, that he should have the means provided for him of recovering his health and thereby regaining his livelihood. As to elementary education, his honorable friend could not deny that it was the best security for the people. The coffers of the Crown were limited and could not provide for everything. He, therefore, protested most strongly against such useful objects being excluded.

The amendment was then put to the Council. As the majority voted against the amendment, it was lost, and the clause was ordered to stand as in the Bill.

The Hon'ble Mr. Cunningham proposed that after the words "the acquisition of land necessary for any of the purposes" in the eighth and ninth lines of clause 2 (*b*,) *Public Health*, the words "and for the purpose of leasing it, or building dwellings thereon for the purpose of being leased" be added thereto; but the amendment, not being seconded, was lost.

The Hon'ble Mr. Macfadyen proposed, and the Hon'ble Mir Humayun Jah Bahadur seconded the motion, that clauses 1 and 2 of (*c*,) *Elementary Instruction*, providing for school-houses for the poor and elementary instruction for the poor, be omitted; but the majority of the Council voted against the amendment. The clauses were therefore ordered to stand as in the Bill.

Section 33.—On the reading of this section, the following amendments were ordered :—

Lines 8 and 9 of the first clause—For "shall be vested in such President and in two officers", substitute "shall be vested in such President assisted by two officers".

Last line of second clause—For "be done by the said officers", substitute "be done by the President or such one of the Vice-Presidents as the President directs".

The third clause to be transferred to the Interpretation clauses in Section 3.

Section 34.—After much discussion, it was resolved that the spirit of this section be altered as follows, the Advocate-General being requested to redraft the section so as to express the sense of the Council :—

Instead of the President being removable from office "if his removal be recommended by a resolution in favor of which not less than three-fourths of the Commissioners have voted at a Special General Meeting," the section to be altered so as to make the President removable from office "if his removal be recommended

by a resolution in favor of which not less than three-fourths of the Commissioners present at a Special General Meeting have voted, provided that such majority consists of not less than one-half of the entire number of Commissioners."

Section 35.—The word " Public " in the last line but one of the second clause to be omitted, and after the third clause the following clause (taken from clause *a* of Section 33 of the Calcutta Act) to be added :—

" Any Civil or Military Officer in the service of the Government may hold the office of President so long as such officer does not fill any other appointment than that specified in this section."

Section 36.—The following words to be added to the section :—" one of whom shall be an Engineer."

Section 37.—An alteration to be made in this section, as to the removal of Vice-Presidents, similar to that made in the case of the President in Section 34.

The word " Public " in the last line of the second clause to be expunged.

A clause, taken from clause *a* of Section 33 of the Calcutta Act, to be added, as in the case of Section 35.

Section 39.—On the reading of this section, it was proposed by the Hon'ble Mr. Coleman, and seconded by the Hon'ble Mr. Cunningham, that the last two sentences, commencing with " In case of a difference of opinion " to the end of the section, be entirely omitted ; but, on the amendment being put to the Council, the majority voted against it. A discussion then ensued as to whether so much of the section should stand as referred to the President being required to record his opinion, only when he differed from both his Vice-Presidents ; and the Council finally adopted the suggestion of His Grace the President that the clause should run as follows :—

" In case of a difference of opinion on any matter between the President and either or both of the Vice-Presidents, the opinion of the President shall prevail, but he shall record the grounds of his opinion."

Section 40.—On the reading of the second clause of this section, it was proposed by the Hon'ble V. Ramiengar, seconded by the Hon'ble R. S. Ellis, and carried by the majority, that a right of appeal to the Standing Committee be given to all dismissed subordinate officers and servants on a salary of 25 Rupees a-month and upwards. The clause was ordered accordingly to be altered as follows :—

" Any person removed from any office to which he has been appointed under this section, the monthly salary of which amounts to or exceeds 25 Rupees, may, within one month from the date of such removal, appeal to the Standing Committee."

Section 41.—On the motion of the Hon'ble V. Ramiengar, supported by the Hon'ble Mr. Cunningham, that the Commissioners ought to have a voice in the matter of leave granted by the Government to the President or Vice-Presidents, it was resolved that the words " upon the recommendation of the Commissioners "

be introduced between the words "The Governor in Council may" and the words "grant such leave of absence" in the first and second lines of the section.

Section 42.—For "aggregate amount of the salary paid to such officer and person" in lines 6, 7 and 8, the words "aggregate sums paid to such officer and servant" to be substituted.

Section 44.—The words "or any office under the Government, the salary of which is not less than of the office so abolished," to be added to the first clause.

Section 46.—In sub-clause 4 of the second clause of this section the word "are" to be inserted after the word "materials."

Section 47.—The words "Rupees three thousand" at the end of the first clause to be altered to "Rupees two thousand".

Section 48.—In line 9 between the word "President" and the words "and two members" the following words to be introduced:—

"or in his absence, of one of the Vice-Presidents authorized by him in that behalf."

Section 50.—After some discussion on the expediency of retaining the second and third clauses of this section, prescribing the manner in which proposals for contracts were to be invited and accepted, the meeting adopted His Grace the PRESIDENT'S suggestion to substitute, for the last sentence of the first clause and for the second and third clauses, the following sentence and clause, respectively:—

"the President shall call for tenders by advertisement."

"Such advertisement shall state the place and time at which the tenders will be opened, and such time shall be at least seven clear days after the publication of the advertisement in two at least of the daily English newspapers and in two at least of the vernacular newspapers circulating in Madras."

The Council then adjourned to Wednesday, the 29th instant, at 12 o'clock noon.

(By Order.)

MADRAS,
25*th November* 1876.

W. M. SCHARLIEB,
Assistant Secretary to Government,
Legislative Department.

MADRAS: PRINTED BY E. KEYS, AT THE GOVERNMENT PRESS, FORT ST. GEORGE.

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Abstract of the Proceedings of the Council of the Governor of Fort St. George assembled for the purpose of making Laws and Regulations, under the provisions of the Act of Parliament 24 and 25 Victoria, Cap. 67.

The Council met at the Council Chamber in Fort St. George on Wednesday, the 29th day of November 1876.

PRESENT:

His Grace the GOVERNOR OF MADRAS, G.C.S.I.—*presiding.*
His Excellency the COMMANDER-IN-CHIEF, G.C.B., G.C.S.I.
The Hon'ble Sir WILLIAM ROBINSON, K.C.S.I.
The Hon'ble R. S. ELLIS, C.B.
The Hon'ble W. HUDLESTON.
The Hon'ble H. S. CUNNINGHAM.
The Hon'ble D. F. CARMICHAEL.
The Hon'ble V. RAMIENGAR, C.S.I.
The Hon'ble P. MACFADYEN.
The Hon'ble G. N. GAJAPATHI RAO.
The Hon'ble MIR HUMAYUN JAH BAHADUR.
The Hon'ble J. G. COLEMAN.

MADRAS RECORD OFFICE

PETITIONS.

The ASSISTANT SECRETARY reported, for the consideration of the Council, the following petitions :—

From G. KISTNASAWMY CHETTY and 174 other Native inhabitants and ratepayers of Madras.

Submitting that the ratepayers are opposed to certain of the provisions of the Municipal Bill, and especially to the new taxes introduced in it; that time has been scarcely allowed them to communicate with each other, in order to protest against its provisions; that the people are starving and reduced to the last extremity; that while the commonest necessaries are selling at famine prices, the discussion of a tax on the food of the people is inexpedient and inopportune; and that they have begged the Hon'ble Mr. MACFADYEN to support them in Council ;—and

Praying that the consideration of the Bill be postponed till the present famine ceases, and people are better able to form a sober opinion on the law in contemplation.

From W. S. VENKATA RAMANJULU NAYUDU, P. VENKATACHELLA CHETTY and 3,471 other Native ratepayers of Madras—

Submitting that although it had been resolved that the Select Committee should take proper evidence on the provisions of the Municipal Bill, the Committee settled

the Bill on the Neilgherry Hills without making such inquiry, and that the Bill therefore contains most of the provisions to which petitioners had objected; that though petitioners are grateful for the concession of popular representation, they consider that the property-qualification for election will practically exclude many educated Natives with a property stake in the city from the privilege of voting at the Town Council; that the retention by Government of the power of nominating half the number of Commissioners, besides the three *ex-officio* members, leads to the supposition that Government do not repose sufficient confidence in the discretion and judgment of the ratepayers; that while they admit the soundness of the policy of fixing a fair maximum salary for the President, they see that two other appointments are created, which will make the executive supreme in the Standing Committee and in the general Corporation, besides adding to the expenditure; that the Municipality cannot afford to bear the cost of hospitals and education, which are either Provincial or Imperial charges; that Sections 60 and 61 of the Bill, as settled by the Select Committee, imply want of confidence in the Municipal Corporation, especially as the Sections contemplate the issue of orders, not to the Commissioners, but to the Executive Officer appointed by the Government; that although the levy of the *Octroi* is intended to depend on an exceptional state of things only, its levy will press on the poor to promote the convenience of the rich; that this tax was levied under another name in the first half of the present century by the late East India Company, and abolished on account of the dishonest practices of the persons collecting it; that incomes have been too highly estimated in the Schedule of the Profession-tax, and remission is not made in the case of petty traders and itinerant vendors; that under the peculiar circumstances of the Native community, Sections 371 to 376 will cause delay and annoyance, in the hour of their sorrow, to persons losing their dear friends and relatives; and that additional taxes in a country liable to the recurrence of periodical famines are disastrous to the well-being of hundreds of thousands of Native ratepayers;—and

Praying that their objections which have already been placed before Council may be now reconsidered in settling the Bill.

The petitions were ordered to be printed and circulated to the Members.

MADRAS MUNICIPAL BILL.

The Council resumed the consideration of this Bill at Section 51, and passed this section and Section 52 as in the Bill.

Section 53.—On the suggestion of HIS GRACE THE PRESIDENT that there should be a continuing clause to this section, as otherwise the Municipality would be brought to a stand-still on the abolition of all offices on the passing of the Act and before the elections and appointments under the new Act could be made and take effect, the Advocate-General was requested to consider the section and re-draft it,

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so as to admit of all existing arrangements continuing until the new offices could be brought into force by notification under the new Act.

Section 54.—HIS GRACE THE PRESIDENT suggested, and the Council agreed, that the word "Commissioners" at the end of Clause 2 should be changed to "Municipal Commissioners for the City of Madras," in order that the Commissioners should always be liable only as a Corporation, and not as individuals. It was also thought that a similar alteration should be made in the definition of "Commissioners" in the interpretation clause, (*f*) so as to bear reference to the corporate constitution assigned to them by Section 6. The Advocate-General was requested to consider this.

Section 56.—It was agreed that after the word "President" in the second line of the third clause, the following words should be introduced:—"and in the absence of the President, by one of the Vice-Presidents specially authorized by the President in that behalf during such absence."

Section 57.—The word "among" was ordered to be inserted before the words "the powers and duties of the Commissioners" in the first clause.

——— *Clause c.*—On HIS GRACE THE PRESIDENT remarking that the Commissioners could not be consistently asked to adopt or modify a report which the law required the President to write of his own administration, the Hon'ble Mr. ELLIS moved, and the motion was agreed to, that the words "consider, adopt, modify or reject" should be altered to "consider, approve or disapprove;" and that the words "and attach any statements thereto they deem fit" be introduced before the words "prior to its submission to the Governor in Council."

——— *Clause g.*—The following amendments were ordered to be made in this clause:—

For the words "To consider, adopt, modify, or reject," substitute "To receive and consider;" and at the end of the clause add the words "and pass such resolutions thereon as may seem to them necessary."

Section 58.—The Hon'ble V. RAMIENGAR proposed the addition of a clause taken from Section 42 of the Calcutta Act, to keep open a complaint book in the Municipal Office, in which to enter the complaint of any inhabitant on any matter cognizable by the Commissioners, for the purpose of being inquired into, and redressed if possible. On the objection being taken that this would lead to no end of difficulty as complainants would be apt to make all sorts of complaints and would write at an inordinate length all over the book, it was proposed by the Hon'ble Mr. CUNNINGHAM—and the proposition was seconded by the Hon'ble Mr. ELLIS and agreed to—that an addition to the following effect be made to the section:—"and there shall be kept there during all hours of business a box for the reception of complaint petitions, and a book for the registry of such petitions and of the orders

which the Commissioners may have passed thereon after inquiry and report by the proper officer."

Sections 60 *to* 62.—On the reading of these sections, the Hon'ble Mr. MACFADYEN remarked that it would be almost a waste of time to endeavour to get those sections excised; but his opinion was very strong on the point, for it seemed unreasonable that a constitution was to be deliberately set up, and 422 sections provided for its working, while the whole fabric was to be swept away by these three sections. He did not deny that the Government ought to interfere when their interference was called for. Section 85 of the Bill provided that the Commissioners were to submit their budget to the Governor in Council, and that the Governor in Council was to have power to alter that budget and to add to it if he saw fit to do so. It seemed to him that, under this section, the Government had as full powers as the Legislature could wish to confer on the Government. The framers of the Bill were a good deal guided by the procedure in Calcutta. There, the original draft was similar to what it was sought to introduce here; but the original draft there was eventually modified by what is now contained in Section 28 of the Calcutta Act. By Sections 60 to 62 of the Madras Bill, the Commissioners would be bound to carry out whatever the Governor in Council decides, or be swept away. Madras might have an æsthetic Governor who might decide that the Commissioners should build a magnificent hospital. The Municipality had to provide for hospitals: the Commissioners might think a small hospital sufficient, but the æsthetic Governor might want a building costing two or three lakhs of Rupees. The sections were very wide: under Section 62, the Government might direct the raising of even a very large loan on Municipal security, *e.g.*, for a drainage scheme to cost 25 or 30 lakhs. The Commissioners might not like it; but the Governor in Council might say—" but you shall raise the loan." As he (Mr. MACFADYEN) had said before, he himself would much rather, under those circumstances, that the Government took the whole administration into their hands, and swept the entire Municipal constitution away. He therefore moved that Sections 60 to 62 be omitted from the Bill.

The Hon'ble MIR HUMAYUN JAH BAHADUR, in seconding the motion, remarked that his honorable friend's arguments applied with equal force to Section 85.

The Hon'ble V. RAMIENGAR spoke as follows:—

" I do not feel the strong objection which the Hon'ble Mr. Macfadyen entertains to the so-called bludgeon sections of the Bill. We should recollect that apart from these obnoxious sections, the Bill, like the present Act, confers but restricted powers on the Municipality and reserves large powers of interference for the Government. The very limits of the Municipal Divisions can be fixed and altered only by the Governor in Council. One half of the Commissioners and the President and Vice-Presidents can be appointed only by the Governor in Council. Even their leave of absence and pensions to municipal subordinates

can be regulated only by Government. No tax authorized to be imposed by the Act can be levied by the Commissioners without the previous sanction of Government. Every item of the Municipal Budget is liable to be overhauled and approved, modified or rejected, as the Government think best; and so throughout the Bill very large powers are reserved for the Government; and the bludgeon clauses are therefore only in keeping with the policy of the entire Bill. Moreover, this power to control the Municipality is no new thing. It is in the present Act. It was retained in the Bill prepared by the Revision Committee of which both the Hon'ble Mr. Macfadyen and myself were members. It is also in one shape or another in both the Calcutta and Bombay Acts. When the Government delegated their functions in the matter of the Municipal administration of the city to the Municipality, they naturally reserved to themselves, in the interests of the general community to whom they are responsible for the well-being of the town, the power of interfering in extreme cases of neglect on the part of the Corporation or their executive officers. Supposing an unusual and unforeseen emergency were to arise—suppose cholera were to rage in the town and people were dying in scores, and the Municipal Commissioners were not coping with sufficient energy with the epidemic either from want of means or other cause—would it do for the Government of the country to sit with folded arms and look on with indifference? Further, as a matter of fact, the power conferred by the obnoxious section in the present Act has never been exercised in the ten years which have elapsed since it was passed, and it is not likely that it ever will be put in force. The provision will therefore in my opinion be quite harmless. But while I am thus of opinion that it is right and expedient that, in the present state of pupilage in which the Municipal Corporation stands in relation to the Government, the latter should reserve to itself the power of interference objected to by the Hon'ble Mr. Macfadyen, I must say that in the manner in which the bludgeon clauses in the Bill are worded, they sound extremely harsh and inconsiderate, and may be taken as implying a want of confidence in the Municipality. Even if the Commissioners were found at any time to prove unequal to the task imposed upon them by the Act, or to neglect their duties wilfully—which is not likely to be the case—I cannot understand why it should be necessary to set them aside completely and to supersede them in the summary and unceremonious manner contemplated by the sections in question. It is difficult to conceive that a body of men such as the Municipality will be, or is expected to be, will be so dead to all sense of duty or so wanting in public spirit as to act at any time in defiance of public opinion and in a manner to justify the Government stepping into their place and sweeping them completely away. I am of opinion that the necessary powers may be retained by Government, and yet exercised in a manner far less objectionable and less galling to the pride of the Commissioners.

I confess I like the corresponding sections in the Calcutta Act, viz., Sections 28 and 29, better than the sections in our Bill, and beg therefore to propose the following amendment :—

That Sections 60 to 62 of the Bill be omitted, and that the following sections, be substituted in their stead :—

Governor in Council may appoint a Commission.

'If it shall appear to the Governor in Council that the Commissioners have failed to make adequate and suitable provision for the cleaning and the conservancy of the city to an extent likely to be prejudicial to the health of the inhabitants of the city, or of any part thereof, the Governor in Council may, by notification in the *Fort St. George Gazette*, appoint a Commission, consisting of three persons, of whom one shall be the Sanitary Commissioner for Madras, or the Senior Medical Officer of the Presidency, the second shall be appointed by the Commissioners in meeting within thirty days of the date of the said notification, or in their default, by the Governor in Council, and the third by the Governor in Council; and the Governor in Council shall order the members of the said Commission to report within a certain time, to be fixed by the Governor in Council, whether they are of opinion that the cleaning and the conservancy of the city are defective to an extent likely to be prejudicial to the health of the inhabitants of the city, or of any part thereof, and, if they shall be of such opinion, to specify in their report what further provision should be made for the cleaning and the conservancy of the city up to the end of the year then current, or of the year next succeeding, as may be directed by the Governor in Council, and to submit an estimate of the cost of the said further provision.

In default of Commissioners, Governor in Council may carry out recommendation contained in report of the Commission.

'On receipt of the said report, the Governor in Council shall forward the same for the consideration of the Commissioners, and if the Commissioners shall decline to carry out the provisions recommended therein, the Governor in Council may order that such provisions, or any of them, or any portion of them respectively, be carried out; and thereupon it shall be the duty of the Commissioners to comply with such order, and to provide the funds mentioned in the said estimate, or such portion thereof as the Governor in Council may fix; and the President shall forthwith carry out such order, and shall defray the cost of carrying out the same from the Municipal Fund.'

'Provided that, if there is a difference of opinion among the members of the said Commission, the opinion and report of the majority of the said members shall be held to be the opinion and report of the Commission.'"

This amendment was seconded by the Hon'ble G. N. Gajapathi Rao.

The Hon'ble Mr. ELLIS did not know whether he was in order in wishing to say a few words at this stage; but he desired to make one or two observations which would apply equally to the two amendments before the Council. He did not for a moment wish to conceal from the Council the intention of the Select Committee in drafting the sections under discussion. It was patent to the world that the Commissioners had gone on without making any improvement whatever in the condition of the city. The death-rate had largely increased; and unless some vigorous action were taken, Madras would soon become one of the most unhealthy cities in the world. The Select Committee conceived that the most straightforward and honest course to take would be to arm the Government with full powers of interference; and hence these sections had been put in. For his own part, he was sanguine that they would never be put in force; but if grave occasion arose—if a fatal epidemic broke out—he maintained that the Government of the country could not sit quietly and look on the death of the thousands committed to their charge. He did not think that the Calcutta sections would do, for they were not sufficiently effectual for the purpose. The Commissioners might say, when directed to carry out any particular work, that they would be delighted to do so, but that they had not the necessary funds. In such a case the Government should be in a position to answer, that what had been directed was absolutely necessary for the well-being of the city, and that if the Commissioners declined to raise the money needed, they (the Government) would raise it for them and carry out the work. He hoped that the new Commissioners who would be appointed and elected under the proposed Act, would display such an amount of public and civic spirit as to render the sections a mere *brutum fulmen*. On behalf of the Government he would say that they were not wedded to any particular system of drainage for the city. The scheme talked of had been made a regular bugbear; it had been described as too vast and beyond the requirements of the city; but he would say again that he was not wedded to Mr. Clark's scheme, or any other particular scheme. All that the Government wanted was some suitable scheme of drainage which would efficiently provide for the wants of the people. There was no ground for supposing that such an exaggerated occasion as that supposed by the Hon'ble Mr. Macfadyen would ever arise; and the Council would do wisely to accept the recommendation of the Select Committee. In the first place, the Government were not too eager to interfere; and, secondly, they should have power reserved to them to interfere on any grave occasion of neglect. In all countries in the world the Government had this paramount right of interference; and in England, this power was exercised by the intervention of the Board of Trade.

The Hon'ble Mr. CUNNINGHAM also desired to oppose the proposed amendments. The question for consideration, he submitted, was, whether, in the event of a divergence of opinion between the Government and the Commissioners, the

deliberately formed opinion of the Government should be followed, or whether the Commissioners were to be left to do just as they pleased. He could not think that there could be much doubt as to which of the two ought under such circumstances to have the prevailing voice. The odds were that the Government were more likely to be right than thirty-two Commissioners, half of whom would be popular representatives. At present for instance, if the people were referred to, he had no doubt that a universal popular opinion would be obtained against any drainage scheme; the people would be quite gratified if they were told that they were not to be taxed, but that they could go on with their bad drains and their bad smells. But the Government refused to accept the popular voice on such a matter. In such a state of things, it was for the Governor in Council to decide as an ultimate court of appeal; and if the Governor in Council were called upon to act, he should have the power to do so, without any embarrassment, such as the provisions of the Calcutta Act were calculated to occasion, in a completely unfettered manner, and in the most thorough way. The Government might safely be trusted to consult the proper authorities before enforcing so stringent a provision as the present. It was unnecessary therefore to provide, as was done at Calcutta, for the submission of the point at issue to a Commission. As to there being anything discourteous in the sections, it was not apparent where the discourtesy lay. The sections had certainly not been drawn with any discourteous intention. In the first place, the Governor in Council had to be satisfied that the Commissioners were neglecting to do their duty; he was then to call upon them to do what was required of them; and then if they refused to do what they were directed to do, he was to appoint some one else to do their work for them. There was certainly no great roughness in such a provision. If the Commissioners positively refused to do their duty, the only proper course was to set them aside by appointing some one to do it for them; there was no use of considering their feelings any longer; of course it was not the most graceful act on either side—for the Commissioners to refuse to do their duty, or for the Government to insist peremptorily on their doing it. But when things came to such a pass, there was no good in mincing matters; and of two courses, it was the right one for the Government to have the power to put the Commissioners aside and to appoint an officer to do what they could not or would not do. Supposing such an unfortunate contingency to arise as a case of irreconcileable difference of opinion between the Government and the Municipality, it was for the Government to say whether any great public work was at any time required for the welfare of the city and to decide on the necessary means of carrying it into execution. This was all that the sections provided, and he trusted therefore that the Council would pass them as they stood in the Bill.

The Hon'ble G. N. Gajapathi Rao remarked that if the "bludgeon sections," as they were termed, were allowed to remain in the Bill, it would be difficult to

obtain the services of independent persons as members of the Municipal Commission, as the sections might be regarded as casting a slur on that body. He was of opinion that Sections 28 and 29 of the Calcutta Act, corresponding with the sections now in question, were drawn in a more considerate spirit both to ratepayers and Commissioners. Notwithstanding this, he remembered that the Calcutta papers subjected the Calcutta sections to searching criticism at the time, and condemned them as unwise and impolitic. It might well be conceived then what a much larger amount of dissatisfaction was likely to be created in Madras, if the sections as they stood were allowed to be retained in the Bill. Should it be considered that these sections could not be expunged, he thought it would be advisable to express the object of the clauses in the more moderate form of the sections of the Calcutta Act.

His Grace the President then put the Hon'ble Mr. Macfadyen's proposition, which had been seconded by the Hon'ble Mir Humayun Jah Bahadur, to the Council, viz., that Sections 60 to 62 of the Bill be omitted. As the majority voted against it, the amendment was lost.

On the Hon'ble V. Ramiengar's amendment, seconded by the Hon'ble G. N. Gajapathi Rao, being next put to the meeting, that Sections 28 and 29 of the Calcutta Act be substituted for Sections 60 to 62 of the Bill under consideration, the Hon'ble Mr. Ellis begged to observe that he was very averse to appear as if he were obstinately bent on refusing to listen to the objections that were taken to these sections. Far from this, he was prepared to agree to a compromise if his honorable friend would meet him. He was willing to limit the power of interference on the part of Government to purposes of public health and sanitation. He believed the chief object to be sanitation. If he was persuaded that the Municipality would at all times provide for the complete sanitation of the city, he would not insist on the sections being retained in the Bill; but he agreed with the Hon'ble Mr. Cunningham that that could not be expected. If the Hon'ble V. Ramiengar would meet him in the manner he proposed, he would limit powers of interference to drainage, cleansing, conservancy, or other necessary objects connected with the well-being of the city. To give an extreme example of what he meant as to the necessity of the interference of Government with the Municipality, the Commissioners might say "we do not think that the town need be lighted at night," when the Government should have it in their power to say "you cannot plunge the city in darkness and give opportunity for an enormous increase of crime."

The Hon'ble Mr. Carmichael remarked that there were two kinds of darkness—there was the darkness the last speaker mentioned; and there was intellectual darkness. His honorable friend appeared to have fled to the hostile camp. If the powers of interference were to be limited as he now proposed, how were we to secure that the Municipality should contribute to elementary education? If the

Municipal Commissioners were in favor of intellectual darkness and agreed to say that they had no money to expend on education, there would be no way of insisting on their finding the money and expending it on that object; he felt persuaded that if the sections as they stood were to go, education might be expected to go too—and, he feared, hospitals also.

The Hon'ble V. Ramiengar observed that he had no objection to any modification, provided the Commissioners were not set aside and superseded without a full and impartial inquiry by a Commission in which they were represented.

The Hon'ble Mr. Ellis observed that he had lived long enough to know that it was difficult to win the whole fight, and that it was better to win half a fight than to lose all. He thought it would be best therefore to agree to the sections being so modified as to limit the power of Government to interfere on questions connected with the public health. The Government would have it in their power always, under Section 85, to direct the Commissioners to provide for hospitals and education in their budget.

The Hon'ble Mir Humayun Jah Bahadur did not think that the Hon'ble Mr. Cunningham was right in saying that the popular feeling was that bad smells and obnoxious nuisances should be allowed to go on. His honorable friend lived on the banks of the Cooum, and must have had his full share of the odours arising from it; but the question was, whether the money required for the proper sanitation of the city was to come out of the pockets of the poor Madrasees, or out of Imperial funds. Sanitary measures were most useful; common sense alone was sufficient to teach that fact.

His Grace the President said that it seemed to him that such powers as those proposed to be given by the sections were powers that would have to be used with great caution and deliberation. He thought that Mr. Ellis' suggestion would be a most advantageous one, both to the Government and to the Municipality. Looking at the Bill, it appeared to him that the power taken to compel the raising of a loan for any purpose was rather too large. Section 85 seemed to give the Government ample power to insert in the Municipal Budget such objects as they considered should be provided for; but there might arise some special case imperilling the health of the people, and it would be advantageous for the Government to have the power of interfering on such an emergency. His Grace thought that the suggestion to limit the power of interference to drainage and conservancy would meet the objections of the opponents to the Bill, while it would give the Government all the power they required. He considered that the appointment of a special officer to inquire on the spot on any occasion requiring such a proceeding would be better than the appointment of a Commission, which would be a very clumsy way of obtaining the information the Government might need. His Grace considered that if there was ever any necessity for the Government to interfere in the Munici-

pality, they should publish a notification in the Gazette of what they intended to do, and that they would do what they intended on a certain date unless the Municipality could show cause to the contrary.

The Hon'ble Mr. ELLIS thought that His Grace's suggestion was a good one, and the Hon'ble Sir W. ROBINSON observed that the Government would be shelved by appointing a Commission.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF said that the people in Madras were scattered over a large and straggling area, and that they were utterly poor and quite unable to meet the cost of anything like such a drainage scheme as had been carried out in Calcutta, which was a very rich and very prosperous city. To raise money from the people in Madras to meet the cost of any large scheme would be simply to impoverish them; and he thought that they would prefer to risk the chance of dying from disease rather than be taxed beyond their powers of endurance. Already the Municipality was, he had been told, unable to pay interest on its present debt; and how could it be expected to meet additional demands for interest alone on large schemes for the improvement of the town?

The Hon'ble Mr. ELLIS explained that, for a moderate scheme of drainage, it was calculated that the interest on the loan required would amount to a lakh and a half.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF said that no trust was to be placed in Engineers' estimates for such works, as they invariably largely exceeded them.

The Hon'ble MIR HUMAYUN JAH said that such had been the case in Calcutta, and that the estimates for the Madras scheme had been prepared by the same Engineer.

On the suggestion of HIS GRACE THE PRESIDENT, it was agreed that the Hon'ble V. Ramiengar's amendment to substitute the Calcutta clauses should stand over, and that the Advocate-General should in the mean time re-draft Sections 60 to 62, so as to limit the power of the Government to interfere to purposes of drainage and conservancy and to appoint a special officer to make inquiry into any mismanagement, such inquiry being conducted in an open and public manner.

Section 63.—On the reading of this section, the Hon'ble V. RAMIENGAR strongly objected to it, because it proposed to put the President and the two Vice-Presidents on the Standing Committee. It was not desirable to introduce a strong official element into this body. It was a part of the duties of the Standing Committee to conduct a monthly audit of receipts and disbursements, to see to the due appropriation of the budget grants, to scrutinize progress reports, to hear appeals, and to dispose of the more important contracts. If all the three Executive Officers were to sit on this Standing Committee, there would be no independent check, and the object of a Standing Committee would be defeated. If however the three Executive Officers must form part of the Committee, then the number

of the non-official Members should be increased from five to seven, for otherwise, if all five did not attend, and if even three out of the five attended, the non-official Members would be outvoted by the executives. The Hon'ble Member added that the idea of a Standing Committee was taken from the Bombay Act, and there even the Municipal Commissioner, that is, even the President of the Municipality, was excluded from the Town Council. He referred to Section 19 of the Bombay Municipal Act III of 1872.

The Hon'ble Mr. ELLIS could not see why the three Executive Officers should be omitted from the Committee, when there were five non-official Members on it. The five Members should make it their business to attend always.

The Hon'ble Mr. CUNNINGHAM opposed the motion to exclude the two Vice-Presidents. The object being to give the President the assistance and counsel of two or three persons in the conduct of the details of the administration, the Select Committee proposed a Standing Committee consisting of the two Vice-Presidents and five non-official Members, which would give the President a compact body of counsellors, the two Vice-Presidents being in a position to render valuable practical assistance. Any larger body would be too unwieldy, and could not possibly deal effectually with details.

The Hon'ble V. RAMIENGAR's amendment, seconded by the Hon'ble MIR HUMAYUN JAH BAHADUR, was then put; but the majority of the Council voted against it.

The Council then adjourned to 3 P.M. on Saturday, the 2nd December.

(By Order.)

MADRAS, 29*th November* 1876.

W. M. SCHARLIEB,
Assistant Secretary to Government,
Legislative Department.

MADRAS: PRINTED BY E. KEYS, AT THE GOVERNMENT PRESS, FORT ST. GEORGE.

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Abstract of the Proceedings of the Council of the Governor of Fort St. George assembled for the purpose of making Laws and Regulations, under the provisions of the Act of Parliament **24** *and* **25** *Victoria, Cap.* **67.**

The Council met at the Council Chamber in Fort St. George on Saturday, the 2nd day of December 1876.

PRESENT.

His Grace the GOVERNOR OF MADRAS, G.C.S.I.—*presiding.*
His Excellency the COMMANDER-IN-CHIEF, G.C.B., G.C.S.I.
The Hon'ble Sir WILLIAM ROBINSON, K.C.S.I.
The Hon'ble R. S. ELLIS, C.B.
The Hon'ble H. S. CUNNINGHAM.
The Hon'ble D. F. CARMICHAEL.
The Hon'ble V. RAMIENGAR, C.S.I.
The Hon'ble P. MACFADYEN.
The Hon'ble G. N. GAJAPATHI RAU.
The Hon'ble Mir HUMAYUN JAH BAHUDUR.
The Hon'ble J. G. COLEMAN.

PETITIONS.

The ASSISTANT SECRETARY reported, for the consideration of the Council, the following petitions:—

(1) From Mr. W. Boalth (retired Deputy Collector) and eleven other subscribers to the Madras Widows and Orphans Fund, resident in Bangalore.—

Submitting that the Bill introduced by the Hon'ble Mr. Coleman to incorporate the Madras Widows and Orphans' Fund, under Act X of 1866, is at variance with the principles and object of the Fund as first instituted in 1834; that the Fund was founded to relieve the widows and orphans of deceased subscribers, and to vest the accumulations in Government securities alone; that the accumulations have now amounted to thirteen lacs and odd, notwitstanding embezzlements by subordinates owing to the lax supervision of the Directors; that the beneficial results of the Institution will be prevented in various ways by Mr. Coleman's Bill; that Act X of 1866 has for its object the accumulation of money by trading and lending money on interest; so that if the Widows and Orphans' Fund be incorporated under that Act, its Directors and Agents will have unlimited powers to fritter away its capital to sowcars, shop-keepers, &c., without sufficient security, and thus bring the fund to a wind-up, while the Directors will be irresponsible to the subscribers at large;—

Giving various reasons in refutation of the Hon'ble Mover's Statement of objects and reasons—among others, that it is erroneous to suppose that the Fund cannot hold property in its own name, as its property has been held by unimpeachable Trustees on its behalf for the last 42 years under the best safeguards for its protection; that it is not correct to say that the Fund cannot be made party to legal proceedings, as the Directors recently prosecuted their Secretary for embezzlement; that as to its inability to contract, it is not intended that the Fund should enter into any contracts whatever; that the private property of the subscribers cannot, as alleged, become liable for the losses or misfortunes of the Fund, but that the property of the Directors would become so liable if they dealt with its capital by entering into contracts, or lending money to sowcars and others; that the Fund has stood and continued in uninterrupted enjoyment of its rights for the last forty-two years, without incorporation, and protected only by the laws of the country; that there has been, and can be, no difficulty in one trustee endorsing to another; that the majority of the subscribers have not consented to the incorporation of the Bill; and—

Praying that the Bill in question be not passed.

(2). From Messrs MURRAY AND Co., N. VEERASAWMY PILLAY and six other Bill and Stock-Brokers of Madras—

Submitting that the Bill proposes to raise the Profession Tax on Bill and Stock-Brokers from Rupees 12 and 25 in the present Act to Rupees 50, 75 and 100; that by the word "Brokers," petitioners mean persons like themselves engaged in the sale of securities, shares, and bills of exchange; that the Bill puts them on a par with salaried officers and Dubashes of firms earning from Rupees 1,000 to Rupees 5,000 a-month; that not a single broker ever made or makes, an income equalling even the minimum of 1,000 Rupees a month; that Dubashes are wealthy men who do an extensive business in import, export, contracts and supply of shipping, and draw a rate of commission at 1 to 1½ per cent., whereas, Brokers never get more than one-sixteenth of a Rupee per cent., *e.g.*, the maximum commission of a Broker is only equal to one-sixteenth of the minimum commission of a Dubash; that an attempt was made in the time of Lord Napier's Government to raise the tax on Brokers from Rupees 25 to Rupees 50; but that Mr. W. R. Arbuthnot, then in the Council, raised his voice against it and succeeded in getting it fixed at Rs. 12 and Rupees 25;—and

Praying that Brokers may be placed in Clauses IV, V and VI of Schedule B.

(3.) From V. MARIAPPA MOODELLY and 46 others, inhabitants of Vesarpadi and eight other villages attached to Madras—

Bringing to notice that it is required by Schedule C, referred to in Sections 143 to 154 of the Municipal Bill No. 6 of 1875, that licenses should be taken for bullocks and male buffaloes by paying, in advance, a tax of half a Rupee per half

year on each of them; that petitioners keep a number of bullocks and male buffaloes for the purpose of ploughing lands; that these animals are not fit for, and are not used for the purpose of, dragging carts, &c., that they are exclusively used in ploughing their lands, and are never brought into those parts of the town which are improved by the Municipality;—and

Praying therefore that Government may order that licenses need not be taken for such bullocks and male buffaloes.

The petitions were ordered to be printed and circulated to the Members.

MADRAS RECO

MADRAS MUNICIPAL BILL.

The Council then proceeded to the consideration of the Municipal Bill.

Section 65.—On the suggestion of HIS GRACE THE PRESIDENT, it was agreed that a progress report of work done should be submitted by the President to the Commissioners when he laid before them his statement of receipts and disbursements, and that such progress report should also be forwarded to the Government and published in the Gazette. On the explanation of the Hon'ble Mr. COLEMAN that it was not the practice to charge the cost of such publication to the Municipality, it was further agreed to omit the provision in the section directing the cost to be so charged. The amendments ordered to be made in this section were the following; —

The words "and also a progress report of work done brought up to the same date" to be added to the first clause.

The words "and progress report" to be inserted after the words "such statement" in the first line of the second clause.

The words "by the President at the cost of the Municipal Fund" to be also omitted in the second clause, as well as the words "number of" and "which is issued next after such meeting."

Section 66.—The words "and place" in the third line of the second clause were ordered to be omitted.

Section 67.—The words "conduct of business" were ordered to be inserted as a minor heading to this and the five following sections.

Section 70.—On HIS GRACE pointing out that it was expedient to limit a time within which an adjourned meeting should take place, it was proposed by the Hon'ble Mr. ELLIS, and the proposition was agreed to, that the words "not more than fifteen days" should be introduced after the words "to such convenient time" in the fifth line of the second clause and that the words "and place" in the sixth line should be omitted.

Section 71.—The words "general or special" were ordered to be inserted after the words "the President of a Meeting" in the first line.

Section 72.—The words "without charge" were ordered to be removed from the ninth line and placed after the word "inspection" in the eighth line.

Section 73.—The words "and consisting of such number of persons" were ordered to be inserted after the word "Committees" in the fourth line.

Section 75.—The words "non-official" were ordered to be introduced between the words "two" and "members of the Standing Committee" at the end of the section.

Section 77.—The scope of the words "the President may summon two or more members of the standing Committee to assist him," to hear and dispose of appeals, was considerably discussed by the Council, the Hon'ble V. RAMIENGAR being opposed to the words as they stood, as they would admit of the two Vice-Presidents being summoned to sit on appeals against their own acts. The Hon'ble Mr. ELLIS thought that the objection could be met by substituting the words "two or more Members of the Standing Committee of whom two at least shall be non-official Members." The Hon'ble V. RAMIENGAR then moved that the words "or more" be omitted and that the words "non-official" be inserted before the words "Members of the Standing Committee." The amendment being put to the Council, was carried by a majority.

The word "may" before "summon" was ordered to be changed to "shall."

On the Hon'ble Mr. COLEMAN explaining that the fee now given to a Commissioner for attendance, on being specially summoned by the President, was only 10 Rupees, it was proposed by the Hon'ble Mr. Carmichael—and the proposition was seconded by the Hon'ble Mr. COLEMAN and carried—that the fee for attendance on the President's summons to hear appeals be fixed at 10 Rupees, instead of at 15 Rupees as proposed in the third clause of this section.

Section 78.—HIS GRACE THE PRESIDENT suggested, and the Council agreed, that the words in the second clause "been approved by the Commissioners at a General Meeting and have" should be inserted between the words "Such Rules shall be of no force or validity until they have" and "received the sanction of the Governor in Council;" and that the words "and of the Commissioners" at the end of the clause should be omitted.

Section 80.—The words "to be held" to be introduced after "Committee" in the sixth line.

Section 81.—On the suggestion of HIS GRACE THE PRESIDENT, in order to permit of the annual budgets being timely prepared and brought on for consideration, the following alteration was ordered;—

For "on or before the Meeting of the Standing Committee in November in every year" at the beginning of the section, read "At a Meeting of the Standing Committee to be held not later than the twelfth day of November in every year."

Section 82.—The following alteration was ordered in this section;—

Instead of "the Standing Committee shall in December of every year prepare a Budget," read "The Standing Committee shall on or before the twelfth day of December in every year prepare a Budget".

Section 83.—The second clause of Section 83 was ordered to be transposed to the end of Section 82; and the words "not less than ten days before the date of such Meeting," at the end of the clause, were ordered to be altered to "on or before the twentieth day of December."

Section 85.—On the reading of this section, the Hon'ble Mr. Macfadyen submitted that it went too far in giving the Government power to add items to the Municipal Budget. A discussion then ensued as to whether this section, read with clause *a* of section 82, gave the Governor in Council power to direct taxes to be levied or loans to be raised to meet the cost of any additional items ordered by the Government to be entered in the Municipal Budget.

The further consideration of this question was postponed; and the Council adjourned to Wednesday the 6th instant, at 12 o'clock noon.

(By Order.)

W. M. SCHARLIEB,
Assistant Secretary to Government,
Legislative Department.

Madras,
2nd December, 1876.

MADRAS: PRINTED BY E. KEYS, AT THE GOVERNMENT PRESS, FORT ST. GEORGE.

Abstract of the Proceedings of the Council of the Governor of Fort St. George assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 *and* 25 *Victoria, Cap.* 67.

The Council met at the Council Chamber in Fort St. George on Wednesday, the 6th day of December 1876.

PRESENT:

His Grace the GOVERNOR OF MADRAS, G.C.S.I., *presiding.*
His Excellency the COMMANDER-IN-CHIEF, G.C.B., G.C.S.I.
The Hon'ble Sir WILLIAM ROBINSON, K.C.S.I.
The Hon'ble R. S. ELLIS, C.B.
The Hon'ble W. HUDLESTON.
The Hon'ble H. S. CUNNINGHAM.
The Hon'ble D. F. CARMICHAEL.
The Hon'ble V. RAMIENGAR, C.S.I.
The Hon'ble P. MACFADYEN.
The Hon'ble G. N. GAJAPATHI RAO.
The Hon'ble MIR HUMAYUN JAH BAHADUR.
The Hon'ble J. G. COLEMAN.

MADRAS MUNICIPAL BILL.

The Council resumed the consideration of the Municipal Bill.

Section 85.—The Hon'ble Mr. CUNNINGHAM read the section as re-drafted by him on the understanding that provision was to be made in it, giving power to the Governor in Council to order the raising of a loan, if such were necessary, to meet the cost of any additional item ordered by him to be inserted in the Municipal Budget.

The Hon'ble Mr. ELLIS thought that it was not desirable to give the Government power in this section to order the raising of a loan, because if the Government considered such a measure expedient they would have power to order it under the "bludgeon sections" (Sections 60—62), and they should not have the power to do so on the mere revision of the Budget.

Mr. CUNNINGHAM then suggested, and the Council agreed, to let the section stand as in the Bill, adding the words "or involve the raising of a loan" at the end of the first clause.

Section 87.—It was resolved to add the words "or supplemental budget" after the word "budget" in line seven.

Section 88.—On the suggestion of the Hon'ble Mr. MACFADYEN, it was ordered that the words "adopted or rejected" in line five of the second clause be altered to "approved or disapproved," so as to be in keeping with the alteration agreed to be made in clause *c* of Section 57.

After some discussion as to whether it was expedient to provide for the publication in the Gazette of the President's Administration Report and the resolutions which the Commissioners might pass thereon, it was agreed by the Council that the words "and shall be published in the *Fort St. George Gazette*" at the end of the section should be omitted, and that in lieu thereof the words "and kept for sale at the Municipal Office" should be inserted.

Section 89.—On the reading of this section, the Hon'ble Mr. HUDLESTON wished a letter addressed to Government by the President of the Municipal Commission to be read to the Council, as in this letter the President explained the difficulties in the way of preparing the lists of taxpayers required by the section.

On the Hon'ble Mr. CARMICHAEL submitting, as a point of order, that no paper could be laid before the Council which was not in the form of a petition, HIS GRACE THE PRESIDENT assented; and the Hon'ble Mr. CUNNINGHAM offered to read the letter as part of the amendment he was prepared to propose.

The Hon'ble Mr. ELLIS suggested that the proper course was for Mr. Cunningham to explain the difficulties that had come to his knowledge since he had drafted Section 89, and that he could then read Mr. Burrows' letter, if he thought fit, as part of his explanation, preparatory to moving his amendment.

The Hon'ble Mr. CUNNINGHAM then explained that the object was to keep before the public complete lists of all persons and property liable to be taxed under any head, so that no arrears, such as had been the case recently, should be allowed to accumulate. The Select Committee felt that this was to be carefully guarded against, and they thought that the two lists proposed by them would supply an effectual remedy against any evasion of tax or accumulation of arrears. The President of the Municipal Commission and the Municipal officers had however informed him of the great difficulty of putting all the taxes leviable under the Act into one general list, prepared first alphabetically, and then according to the streets in which the taxpayers lived or the taxpaying property was situated. What they would be glad of, was to have a complete list, say, of persons subject to the profession-tax, then a street list of houses subject to payment of house-rates, and so on.

On Mr. Cunningham proceeding to detail the separate lists he would have the Municipality keep, and the form in which they should be kept, the Hon'ble Mr. MACFADYEN observed that it appeared to his mind rather discreditable to the Municipality that the Council should be called on to legislate in detail for the manner in which the Municipality should do its work.

MADRAS RECORD O...

The Hon'ble Mr. ELLIS thought so too, and considered that these details were the proper functions of those watchful guardians—the Standing Committee.

Mr. CUNNINGHAM thought that after the recent disclosures of municipal apathy, it was absolutely necessary to keep the officers of the Municipality up to the mark. Things had been suffered to lapse into absolute chaos. The President had said to his Collector that he wanted a list of outstanding taxes, and the Collector had answered that a sum of about 20,000 Rupees was due; but it was afterwards discovered that the Collector was out by a lakh and a half. Mr. CUNNINGHAM wished the lists to be sent up to Government, in order that the Government might see whether the taxes were properly collected or not.

The Hon'ble Mr. ELLIS remarked that if the President and the Standing Committee did not see that the taxes were properly collected, the Government would appoint a special officer to enquire into and report on the matter. He thought that if the lists were printed, it would meet Mr. Cunningham's objections, and that such arrears as a lakh and a half were not likely to occur if the President revised these lists each year. It was for the President to proceed in a business-like way and put down all persons liable to pay tax. He thought that Section 89 might be retained, and provision made for keeping the lists open to inspection at the Municipal Office.

SIR W. ROBINSON remarked that the publication of a list of taxpayers, showing whether they were in arrears or not, was equivalent to posting defaulters: he considered that such matters of detail were within the scope of bye-laws, and ought not to form part of an enactment; nor was it for the Government to do the office work of the Municipality.

The Hon'ble Mr. HUDLESTON observed that it was not for the Council to go into such details. He asked why it was not sufficient to make a general provision for the President to keep such lists of taxes and persons and property liable thereto, as the Government might sanction on the recommendation of the Commissioners, or to keep such lists as the Government might direct. There could be no object in submitting the lists to Government. The Government had the Administration Report before them, and they could ascertain from it whether the Municipality was doing its duty or not. It would be sufficient if the headings of the required lists were printed, and the details written in afterwards, in order to avoid the immense expense of printing the entire lists. These lists might be kept exposed in the Municipal Office, and the Standing Committee would see if the taxes due to the Municipality were properly collected or not. It was no part of the duty of Government to examine the lists and see whether such and such persons had paid their dues or not, as the Government were not responsible for the collection of the Municipal taxes.

He begged permission to mention the difficulties which the President of the Municipal Commission had reported (in his letter to Government) to exist in the way of preparing the lists in the manner required by Sections 89 to 92 of the Bill. These sections required that two lists of taxpayers should be prepared within three months after the passing of the Act; one list to be alphabetical, and the other to be arranged according to divisions, streets, and houses; the form in which the lists were to be prepared being given in Schedule A annexed to the Bill. Under the system at present in force, street lists were prepared for each tax, and the collections were concurrent with the preparation of these lists, except in the case of house and land rate. In future it would be necessary that these street lists should be completed before the preparation of the two new lists could be commenced. The taxes and other payments to be entered were 1, Tax on Arts, Professions, Trades or Callings; 2, Tax on Houses, Buildings, and Lands; 3, Rents; 4, Water-tax; 5, Lighting-tax; and 6, Tax on Carriages and Animals. Upwards of 31,000 bills were annually made out for the house and land rate alone; and although it was true that the persons who paid the rate were fewer in number than the bills made out (according to the holdings), there would not be a less number of entries in the list if it was to serve any practical purpose. There were about 9,000 persons assessed annually to profession-tax; and although some of them were also liable to house and land rate, most of them were not so liable.

The word "Rents," Mr. Burrows presumed, would include all persons occupying municipal property subject to a payment of rent including what were called ground-rents and rents for apartments in the model parcherries. The parcherry rents were now collected monthly in advance; and under Section 127 ground-rents were to be collected monthly in arrears. The parcherry rents were 8 Annas per month for each set of apartments; but the ground-rents ranged as low as 2 Annas, and included a large number of persons who changed their occupation frequently. It would be extremely difficult to make a list beforehand of these persons; and as they were all persons of the poorer class, who as a rule paid no other tax, their names would appear with nothing but a small sum against them in the column of "Rents," and would add considerably to the bulk of the lists. Persons liable to water-tax and lighting-tax would, of course, have been included under the head of House and Land rate, and would not therefore swell the list: similarly, payers of liquor-tax would all appear in the profession-tax column. But under the head of Tax on Carriages and Animals, there would be a long list of persons, such as jutkawallahs and owners of draught bullocks, who would pay no other tax.

Altogether, Mr. Burrows estimated that each list would contain, when complete, upwards of 40,000 names; and allowing forty names to the opening, a list would form a large volume of about 2,000 pages.

The House and Land Rate Register contained the names either of owners or occupiers, and in several cases names of former owners. Supposing all the present owners' names were now in, the preparation of these two lists would be no easy task. To give one instance of the difficulty: the name of Ramasawmy Naidu might appear as the owner of a hundred different premises in Madras in the House and Land Register. Again, there might be fifty persons of that name in the Profession-tax Register; fifty more in the Wheel-tax; and as many more in the Register of Rents. However carefully the Street Register might have been made, mistakes were sure to occur when the individual accounts were collected in one list; and neither of the two lists would at any time be correct. The alterations which would be incessantly required from the first day of their formation would detract seriously from their practical usefulness.

Mr. Burrows had been treating these lists, as though their production within three months of the commencement of the year were possible; but his opinion was that it was absolutely *impossible* to produce such lists as the Bill contemplated within that time. How was it possible, he asked, to determine, for instance, how much a man would have to pay for carriage-tax, or for professional-tax, until at least two months after the commencement of the year of taxation? The liability to pay these taxes was not complete, until the expiration of two months. If the lists were to be worth any thing, they should only include persons whose liability was ascertained. But if the preparation of these lists was only commenced when these taxes became due, there would only be left the short space of *one* month for the profession-tax and carriage-tax lists—assuming that they both commenced simultaneously at the beginning of the calendar year—being completed; for the persons liable to these two taxes being distributed in two general lists, including all other taxes payable by them; and for these two lists, bulky as they would be, being got through the Press, submitted to Government, furnished to Editors of Newspapers, and offered for sale.

Again, Mr. Burrows could not see how it was possible to determine how much a man had annually to pay for ground-rent which, according to Section 127, was payable monthly. He inferred that the list was intended to be an *annual* list, and that the annual amount of the ground-rent was to be entered. It would be necessary to assume that each person would continue throughout the year to hold the same extent of ground—an assumption which would in the majority of cases prove incorrect. If these lists were insisted on, Mr. Burrows had not the least doubt that, with immense labor and with every precaution against mistakes, two huge volumes containing blunders in almost every one of their 40,000 lines would be the result. They would be a great expense to the Municipality, and practically they would be worthless.

Lastly, Mr. Burrows submitted that, according to his experience, there was no necessity for such lists; and he trusted that the sections relating to them would be struck out.

With such difficulties before them, it was not for the Council, the Hon'ble Mr. HUDLESTON submitted, to legislate in detail what number of lists should be kept, and in what manner they should be kept.

The Hon'ble Mr. ELLIS remarked that it would have been much more satisfactory if Mr. Burrows had explained how he intended to proceed to collect his taxes, instead of merely mentioning difficulties in the way of making out the lists of tax-payers. He could not see how the Municipality were to tax the people without any lists to guide them. According to Mr. Burrow's argument, there was to be a happy-go-lucky system of putting down a man's name whenever it was discovered that he was liable to pay a tax. He was in favor of some general provision requiring lists to be kept of all persons liable to taxation and that such lists should be open to inspection.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF believed that there had been great laxity in collecting taxes: he doubted whether he had ever received a demand to pay.

The Hon'ble Mr. COLEMAN considered that the keeping of lists of tax-payers would be of great use in helping the President to find out who ought to be taxed.

HIS GRACE THE PRESIDENT considered that it was quite possible to simplify the lists. Did any one think that the Government could ever examine the twenty volumes of lists proposed to be sent up to Government? With the power given to Government in Section 94 to call for any statistics or other information at any time, His Grace considered that if the law simply provided that the President was to keep lists of persons liable to taxation, and that such lists were to be open to public inspection on payment of a reasonable fee, it would effect all the publication that was wanted. Sections 89 to 92, as they stood, would give immense trouble. The proposed printing of the lists would become a great business; and the next thing would be to employ a special reader to pick out all the defaulters, &c. All this would involve much unnecessary expense. Instead of directing that two lists of tax-payers should be prepared alphabetically and according to streets, it would be better to provide generally that separate lists should be kept of all taxes payable, and that such lists should be open to the inspection of the public.

On the suggestion of HIS GRACE, the Council agreed to substitute a clause to the following effect, in lieu of Sections 89 to 92:—

"It shall be the duty of the President to have prepared, and to keep, separate lists of the persons and property liable to the several taxes payable under this Act not being tolls or town duties. Such lists shall be open at all reasonable times to the inspection of any tax-payer on payment of a fee of 2 Annas."

Section 93.—On the reading of this section, HIS GRACE THE PRESIDENT considered that a date should be fixed for the nomination of Auditors to audit the

Municipal Accounts and for the submission of their report to Government; the section as it stood did not provide for the report coming up to Government at all.

The Hon'ble Mr. COLEMAN suggested that there should be a concurrent audit, and remarked that the audit contemplated in the section would only be a farce.

The Hon'ble Sir W. ROBINSON observed that, in such case, it would be necessary to have standing Auditors. HIS GRACE THE PRESIDENT thought that there would be difficulty to find qualified persons to undertake the task; whereupon the Hon'ble Mr. COLEMAN submitted that the remuneration to be given should be such as to attract qualified Auditors.

The Hon'ble MIR HUMAYUN JAH BAHADUR proposed that, for the purpose of enabling the Auditors to make a thorough search into the accounts of Contractors as well as into the accounts of the Municipality, powers, such as those to be found in Sections 60 and 61 of the Calcutta Act, should be provided to enable the Auditors to summon and examine persons, to call for their accounts and papers, and so on. The Hon'ble Mr. COLEMAN mentioned that it was the practice in the Municipal Office to give the Auditors free access to all books and accounts; and it was explained by the Hon'ble Mr. CUNNINGHAM that the Calcutta sections did not empower the Auditors to demand the accounts and books of Contractors, but only those of the officials connected with the Municipality.

The Council then considered and adopted the following section suggested by HIS GRACE THE PRESIDENT, in lieu of Section 93 in the Bill:—

"The Governor in Council shall nominate, on or before the thirty-first day of March in every year, two persons to be Auditors of the Municipal Accounts, who shall maintain and keep a continuous audit of the said accounts, and submit a report of such audit to the Commissioners, and also a duplicate of such report to the Governor in Council on or before the fifteenth day of October and the fifteenth day of April in every year, for the six months ending the thirtieth day of September and the thirty-first day of March respectively."

HIS GRACE THE PRESIDENT, however, requested the Hon'ble Mr. Cunningham to consider whether he would advise any penal clause being incorporated in Section 93 of the Bill, similar to that provided in Section 61 of the Calcutta Act, as it might be useful to have such a provision to enforce compliance with the wishes of the Auditors.

Section 95.—The Hon'ble Mr. CUNNINGHAM proposed to omit Clause 10 providing for the levying of town duties.

The Hon'ble Mr. CARMICHAEL proposed to defer the consideration of Sections 95 to 97, and proceed with the sections dealing with each tax, after which Sections 95 to 97 might be taken up again.

The Hon'ble Mr. ELLIS suggested that it would be better for Hon'ble Members to unbosom themselves first, so as to give the Council some idea of what they considered objectionable in the section, and what they would retain.

HIS GRACE THE PRESIDENT then called upon His Excellency the Commander-in-Chief to state his objections to Clause 1, providing for the imposition of a profession-tax.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF proposed that Clause 1 of Section 95 should be so modified as to tax professions, trades and callings, not including Military, Commissariat, or Ordnance; in other words, to exempt officers and soldiers from paying a profession-tax and from the obligation of taking out a license to practice their profession. HIS EXCELLENCY urged the amendment in order that officers and soldiers might be placed in Madras on the same footing as their comrades were placed in other parts of India and, he might say, in every other portion of the Queen's dominions. In no other place was the soldier called upon to pay a tax on his profession. Speaking as a soldier, HIS EXCELLENCY felt that it was an indignity to a military man to require him to take out a license, or to pay the Municipality a fee, to enable him to discharge his duty to the Crown. He was sure he was only expressing the general feeling of the army he had the honor to command, in saying that the officers had no desire to avoid helping towards providing the funds needful for municipal purposes, but they would never be content until relieved of what they considered to be an indignity to the commission they had the honor to hold from the Queen. Already disgrace had fallen upon officers and soldiers, because of the Act as it stood at present.

He would observe that military men did not pay much attention to legislation, because they felt confident that the Legislature would look after their interests. As an example of this, he would mention that an officer in the high position of the Adjutant-General, who was the right-hand man of the Commander-in-Chief, was summoned and fined at the Police Court for not paying his profession-tax. He would also mention that some officers of Her Majesty's 67th were also summoned in the same way. Then there was the case of Garrison Serjeant-Major Hartley who was summoned to the Police Court for not paying his tax. By having thus been summoned and fined by a Police Court, this non-commissioned officer had been guilty of a misdemeanour, and was liable under the Articles of War to be degraded from his position. Was this the sort of treatment to which a good old soldier should have been subjected? In addition to his garrison and military duties, Serjeant-Major Hartley had charge of the flag-staff; and it was to him that every one in Madras was indebted for the signalling of steamers and for information of the arrival and departure of their friends. An officer or a soldier did not stand in the same position as a civilian. A soldier came and went as he was ordered to do in the service of his Queen: a civilian, on the other hand, came to Madras of his own choice; he remained here as

long as he liked, and he went elsewhere as he chose to do. There was not a single soldier within the limits of the city of Madras who could feel sure that he might not be called upon to quit the place before the rising of the Council. In order to show the Council that he was not propounding something altogether novel, or that he was not without foundation in urging his proposition, he would quote from the debates in the Legislative Council of India in 1868, when the subject of Municipal taxation in the North-West Provinces was being discussed. Sir Henry Durand had spoken as follows :—

"I should have dwelt on the inexpediency of the Bill covering, as it does, the levy of Municipal taxes from those in the Military Service of the State. This is a point on which I entertain a strong opinion, and consider that the action of the Bill should have been restricted. But as I hope that His Excellency the Commander-in-Chief may touch on this omission in the Bill, I shall abstain from entering at any length on the question."

He would now quote from the Proceedings the report of the observations made by Sir William Mansfield on the question of taxing soldiers :—

"With respect to the point stated by Mr. Brandreth, and on which he had been appealed to by Sir Henry Durand, in regard to Cantonments, His Excellency would observe that, under the orders of the Governor-General, a circular had lately been directed to the several Local Governments as to whether Municipal taxation was applicable to Cantonments ; and if so, in what form such taxation should be imposed. His Excellency had the greatest objection to it himself in any form, as he did not think, considering the manner in which Military Cantonments were organized, that it was either equitable, or politic to extend Municipal taxation to them. He said 'equitable,' because Municipal arrangements were for the benefit of citizens. It had always been held that Cantonments were Government establishments for the residence of military men who were there according to military orders in the discharge of their duty, the expenses of roads and so forth falling on the State. Now, although Bills might be passed, such as the Punjab Experimental Act, which gave the power of taxing people without their being consulted, His Excellency did not think it would be possible to introduce such a practice if they had a British constituency to deal with. If therefore they extended such provisions to Cantonments, in which resided British officers and other members of English society, His Excellency was convinced that they must frame their Municipal Bills on totally a different principle. There was no Englishman, he imagined, who would be content to live under a system which ignored the right of tax-payers to have a voice in the raising and application of the Municipal taxes—a system deprecated in the report of the Commissioners who reported before Municipal reform took place in 1835, and who said that reform was then required in England because of the close character of the Municipal corporations of that day, when those who paid the taxes were unable to know how the proceeds of those taxes were disbursed. Another point in connection with military officers should be considered. His Excellency thought it extremely dangerous that military men, living in a state of discipline, should be mixed up with measures of taxation which would give them a right to discuss the measures of the Government which they were bound to serve ; yet if you subjected them to that taxation, they would require to be represented, and not only that, but they would insist on discussing all questions connected with Municipal operations. He thought that would be dangerous in a political point of view, and very wrong in a military point of view. The matter was, however, under investigation ; and he

would only ask Mr. Brandreth, who was in charge of the Bill, to leave out the question of Cantonments, and let it be treated in the manner which had already been decided by His Excellency the Governor-General."

His Excellency then begged to refer to the practice in other Presidency towns, in order to show that he was not asking more than what the military had a right to expect. In Calcutta a profession-tax was only imposed on merchants, shopkeepers, and persons of other professions and callings, while all public officials were excluded from liability to the tax. Horses belonging to officers doing regimental duty were also exempted. In Bombay no profession-tax was levied at all; and he would point out that in Bombay they extended to the military the privilege of exempting from taxation horses belonging both to staff and regimental officers. His Excellency was prepared to admit that as to one phase of the tax, an improvement had been introduced, viz., as to military men obtaining a sort of sanction from the Municipality to perform their duty by paying a profession-tax. They were no longer required to take out formal licenses. That pill, thanks to the Select Committee, had been gilded; but the disagreeable taste still remained. His Excellency hoped that what he had said would induce the Council to exempt the military from taxation in the manner proposed.

The Hon'ble Mr. Carmichael inquired whether His Excellency would include Volunteers under the head of Military; and the Hon'ble Sir W. Robinson inquired whether officers serving in the Police would be exempted from taxation as military men. His Excellency the Commander-in-Chief replied that he would include all persons coming within the Articles of War as military men; his object was that they should not be required to pay a tax for doing their duty.

The Hon'ble Mr. Macfadyen observed that it might appear that he was rather ungrateful to His Excellency to speak in opposition to his amendment, as His Excellency had given him such strong support in his (Mr. Macfadyen's) objections to other parts of the Bill. But he must submit that it was taking a mere sentimental objection to put it that military officers should not be called upon to pay a tax to the Municipality, because they held their commissions from the Queen. Schedule B simply contemplated that persons getting certain incomes should make a certain contribution to the Municipality for benefits enjoyed by them in common with all other citizens. It was a sort of rough and ready income tax without any inquisitorial inquiry being made as to what income a person made and what he ought to pay on it. His Excellency could not forget that where the income tax existed, military officers, as well as civilians, had to pay it.

His Excellency replied that the military had no objection whatever to an income tax if it was imposed as such.

The Hon'ble Mr. Macfadyen rejoined that what was proposed was practically an income tax. The income tax was an Imperial tax, which was cheerfully

paid by soldiers in England. In his opinion it was a great pity that an officer in so high a position as the Adjutant-General should have set a bad example by declining to obey the law. He should have first paid the demand, and then tried to obtain, as His Excellency was now seeking to do, a constitutional remedy.

His Excellency observed that he did not mention the instance of the Adjutant-General by way of commendation, but merely to show the result of the law as it stood.

The Hon'ble Mr. Macfadyen was prepared to admit that a soldier's life was a life of vicissitudes; but then a civilian's life was also a life of vicissitudes. Both had chosen their own careers; and both were bound to take the consequences that might attend their career. A soldier had not a bit more to complain of than a civilian; for a civilian was as liable to be moved from place to place by circumstances as a soldier. While they resided in Madras, both soldiers and civilians equally enjoyed municipal benefits; and as long as they lived in Madras both were equally called upon to contribute their share of the expense of the benefits provided for them. Why should not such a claim as had been put forward on behalf of military officers be advanced on behalf of civilians? They came to Madras under their covenants; and some of the lucky ones who spent six months on the Hills enjoyed the municipal benefits of Madras for only six months; and yet they had to pay a profession-tax for the whole year. Military men benefited from good roads, lighting and drainage; and it was not hard to ask them to help the community in bearing the municipal burdens. It must be remembered that both the speeches quoted by His Excellency were made by military men. While yielding every weight to the opinion of such officers as Sir Henry Durand and Sir William Mansfield, Mr. Macfadyen submitted that it was after all the opinion they formed from their view of the question. Hon'ble Members like himself had to look at it from their own view. These had to look round them in every direction, and see whence they could get the required funds. He was no lover of the profession-tax; but it was no new tax they were going to put on; it was in existence; and in so far as it was in existence, it appeared to him to be invidious to think of making class distinctions. For these reasons, Mr. Macfadyen could not support His Excellency's amendment.

His Excellency wished again to impress upon the Council that military men did not object to contribute to the Municipal Funds. What they insisted on was that they ought not to be called upon to pay any tax of the nature of obtaining a sanction for doing their duty which the Crown bade them to do. If the Council thought fit to increase the municipal income by a larger house-tax or any additional impost other than a profession-tax, military men would cheerfully pay such a tax.

The Hon'ble Mr. Ellis observed that he was converted by His Excellency the Commander-in-Chief. He admitted that the logic of the argument was with Mr.

Macfadyen. But in all countries in the world, a soldier's life was a life of privation; and privileges were accordingly extended to him to compensate them for his privations, and one of those privileges in all parts of India was this concession of exemption from a profession-tax. And as such a concession was made in other parts of India, why should Madras alone be behind hand in conceding a well-earned tribute to our gallant army?

His Grace the President remarked that his attention had been drawn to the question, and he had come to the conclusion that military officers and soldiers were not properly the subjects of municipal taxation. It was very undesirable that soldiers residing in Madras should not experience the same benefits that had been extended to them in other parts of India. But there was another point which His Grace wished to press upon the Council. A soldier had enlisted to go wherever he was ordered to go. He had a contract that a certain income was to be secured to him: no one had a right to mulct him of any portion of that income; and it was surely admitted that soldiers had not more than enough. To take any portion of his income away simply because he came into a certain town in the course of his duty, would be to infringe the contract that existed between the soldier and the Crown.

The Hon'ble Mr. Macfadyen begged His Grace to refer to the new Schedule which proposed to exempt all persons drawing salaries less than 200 Rupees a-month. He submitted that under such a provision all soldiers, non-commissioned officers and the majority of warrant officers would come within the exemption.

His Excellency the Commander-in-Chief stated that the amount of his income was well known; but sooner than pay a farthing to the Municipality as a sort of fee for their license to enable him to exercise his profession, he would not live within the limits of the town. He was quite willing to pay any other tax but a profession-tax.

Mr. Carmichael inquired whether Medical officers who were Military Surgeons, but who made large incomes by private practice, were to be exempt from paying profession-tax.

His Excellency replied that as Military Surgeons they should be exempt, but as private practitioners they would not.

The Hon'ble V. Ramiengar remarked that he could add but little to what had fallen from his hon'ble friend Mr. Macfadyen. Military men were called upon, not as soldiers, but as citizens, to bear their share of the municipal burdens of the town in which they lived. If military men under their commissions were to be exempt, why should not covenanted Civil Servants also be exempt under the terms of their covenant? He was only speaking with reference to His Excellency the Commander-in-Chief's arguments. If soldiers were to be exempted, precisely the

same arguments applied for exempting covenanted civilians who had to work where they were ordered to work under their covenants. If both soldiers and covenanted civilians were to be exempted, it was not worth while to retain the profession-tax at all. Instead of considering it a disgrace to pay a tax, he thought that the guardians of the public would have felt it a pride to pay it. If any exemption was to be made, he proposed that the profession-tax be omitted altogether.

The Hon'ble Mr. Cunningham thought that he could propose an amendment which would meet the difficulty. He had drawn the section after consulting with the Adjutant-General, and understood from him that the provision as it was now framed would not be disagreeable to the military. He had understood the Adjutant-General to say that if all allusion to taking out a license were removed, the military would be quite satisfied to pay a tax on their incomes. The Select Committee had recognized the objection, and had so altered the original wording as, in their belief, removed all cause of offence. They believed that they would no longer wound the feelings or susceptibilities of military officers. There were others like himself (Mr. Cunningham) holding patents from the Queen, who felt a difficulty to follow His Excellency the Commander-in-Chief in his objections to the tax. They, as much as His Excellency, were servants of the Crown: they served the Crown with their heads and their pens, while soldiers served with their guns and their swords; and why should it be said that that was a disgrace to one which was not a disgrace to the other? Mr. Cunningham could however so alter the wording as to make the tax an income tax. If a tax yielding 85,000 Rupees a-year was to be left out altogether, he did not know how the Municipality was to get on. The word profession-tax was a mere matter of nomenclature—a rose would be as sweet under any other name. It was considered that it would be objectionable to call the tax an income tax, and so it had been called a profession-tax. By all means let us meet the susceptibilities of military men and call it an income tax; while the change of name would further remove the objection of making invidious distinctions between classes. If he could meet His Excellency's objections by doing so, he would call the tax an income tax.

The Hon'ble Mr. Macfadyen seconded this amendment.

His Excellency the Commander-in-Chief again observed that military men had no objection to pay taxes. He said 'call it what you like'; but he was only expressing the universal feeling of the officers of the army when he said, 'tax us in any way you like, but do not tax our profession.' He repeated that if a Medical officer made an income by private practice, such income was not his income as a military man, and it would be subject to municipal taxation like all other civil incomes.

The Hon'ble Mr. Ellis observed that the Council would get into a difficulty with the Government of India, if they proposed to raise an income tax for

municipal purposes. He would support His Excellency the Commander-in-Chief's amendment as a just concession to the army.

The Hon'ble Mr. HUDLESTON agreed with Mr. Ellis. He found that Section 98 required all persons to pay a tax on their professions, trades, or callings; and he did not think that military men should be called upon to pay any tax on their profession.

HIS GRACE THE PRESIDENT then put to the Council His Excellency the Commander-in-Chief's amendment that Clause 1 of Section 95 of the Bill should run as follows:—"Tax on arts, professions, trades or callings, not being a military profession or calling." The amendment was carried by a majority.

The Hon'ble Mr. CUNNINGHAM felt some hesitation in moving his amendment after the last amendment had been carried; but his proposal was that instead of the clause running as it had just been voted to be amended, the clause should run "Tax on incomes." He proposed this on the understanding that the military had no objection to pay an income tax. The Select Committee had no opportunity of knowing until now the objection raised by the military. The Municipality was extremely distressed for money; and any exemption to a particular class would excite disagreeable feelings of distinction.

The Hon'ble Mr. MACFADYEN seconded the amendment. On its being put to the Council, the votes were found to be equal. HIS GRACE THE PRESIDENT gave his casting vote against the amendment, and it was lost accordingly.

The Hon'ble Mr. RAMIENGAR then proposed that the profession-tax be omitted altogether. The Hon'ble Mr. MACFADYEN remarked that the amendment was but the logical sequence of the amendment that had been carried; but unfortunately the Municipality wanted all the money it could get. The amendment was seconded by the Hon'ble G. N. GAJAPATHI RAO; but on being put to the Council the amendment was lost.

The Council then adjourned until the return of HIS GRACE THE PRESIDENT and Members from the Imperial Assemblege at Delhi.

(By Order.)

MADRAS,
6th December 1876.

W. M. SCHARLIEB,
Assistant Secretary to Government,
Legislative Department.

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